

MASTERPIECES OF LEGAL FICTION

38 Classic Stories of the Law

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~~any Maupassant~~ *Waller* *feet*
Oscar Wilde
Leo Tolstoy
Butcher Sydney Porter
W.T. Maupham
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MASTERPIECES OF LEGAL FICTION

Edited By
MAXIMILIAN KOESSLER

How much joy is there in the decision of a court? How much sorrow? Is justice done? Does injustice prevail? Do the guilty pay and the innocent go free? How sharp is each edge of the sword?

What can the average person know of the depths of human feeling that are plumbed by what is contained in the dry pages of a judicial decision in a volume of reports? The one person who perhaps knows more than anyone is the lawyer. He is not only the advocate before the bar of justice, but often the confidant and confessor who more often than not becomes personally involved in the cause of his client. Who but the lawyer feels the emotional involvements of this world and our society most keenly?

This kind of man and attorney is often found among the members of any local Bar Association. This type of lawyer is to be found along with all of his legal brethren in the enthralling pages that follow. Here are the tales of the law and lawyers that cannot help but reach into the heart of any reader, especially a lawyer. It is only fair to say here that tears as well as laughter await the reader of this book.

For these are the mighty tales of the law in fiction and as fiction. We have chosen only the exceptional for you. Here are the colossi of literature in their finest efforts as

(continued on inside back flap)



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Masterpieces of Legal Fiction

Edited by

MAXIMILIAN KOESSLER

The Lawyers Co-operative Publishing Company
Rochester, New York

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Rochester, New York

Library of Congress Catalog Card Number: 64-8629

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Introduction

Here is a sensitive, meticulously careful selection of the law as it lives in the world's finest fiction.

The anthologist's task was performed unhampered by limitations of space, time, or emotion: there are stories from the Far East and from Europe and America; the settings range from the earliest times to tomorrow; the themes are sad and happy, witty and grave. All are unified by a common focus—the ways of justice and injustice.

This is a unique collection. Many of the short stories and novelettes it contains bear titles that are distinctly unfamiliar; most of them will not be found in any previously published anthology of this kind. To the extent possible, their arrangement reflects their chronological position in the timestream of history.

Is there a shelf in your personal library reserved for especially treasured books? This volume will have its home there.



Editor's Foreword

These literary masterpieces have three things in common. Their subjects are fictional; they somehow reflect the ubiquitous feature of human society which is the law, and they are works of prose. Some of them have been written by professional lawyers or authors with some kind of legal training or background. Others are the creations of writers who had no such connection with the law, but whose imaginations were inspired by phenomena that occur in the administration of the law.

"The Usurer's Will", by Giovan-Francesco Straparola, deals with a final testament that is unusual because of its cynicism. *"In A Grove"*, by the Japanese author Ryunosuke Akutagawa, concentrates on the inconsistencies often found in the testimony of eyewitnesses. *"The Rector Of Veilbye"*, by Steen Steensen Blicher, is a narrative inspired by an actual case occurring in the year 1625. This was the conviction of a Danish clergyman whose innocence came to light long after his execution. The German classic by Heinrich von Kleist, *"Michael Kohlhaas"*, tells the story of the tragic hero who turns from an ordinary and honest man into a common criminal through bitterness caused by an injustice done to him by a court supposed to administer justice fairly.

"The Two Drovers", by Sir Walter Scott, is a tale of intentional murder set in Scotland. It is a touching story that cannot help but enlist the sympathy of the reader. *"Colonel Chabert"*, by Honoré de Balzac, is an exceptional "Enoch Arden" story set in the Napoleonic Era.

"The Executioner", another fine story by Balzac, is a fascinating tale laid in Spain when that country was under the occupation of the troops of the first Napoleon. It demonstrates that pardon, ordinarily an act of mercy, may be granted under such conditions as to result in cruel and unusual punishment. Herman Melville's *"Billy Budd, Foretopman"*, is a posthumously-published masterpiece by the man who has

been called America's greatest writer. Its suspense at times equals that of "Moby Dick". Dealing with a court martial on a British vessel in the days of sail, it portrays in an enthralling manner the two central antagonists: a sailor who is almost angel-like in his character and conduct, and one of his superiors who seems dominated by an evil spirit, which leads him to attempt perversely and insidiously to undermine the excellent reputation and great popularity of that young seaman. The court martial that eventually results, and the events that flow from it, pose legal questions that will fascinate the mind of any attorney.

Guy de Maupassant's "*Rosalie Prudent*" is the touching story of an infanticide committed under such circumstances as to cause upheaval in the minds of the jury deciding the case. An ideal example of the advocate endowed with an extraordinary degree of persuasive eloquence, who has become an American legend, is masterfully described in "*The Devil And Daniel Webster*", by Stephen Vincent Benét. "*Colonel Starbottle For The Plaintiff*", by Bret Harte, is an entertaining story in a Western setting. It illustrates how "heart-balm" suits were used to blackmail people before this cause of action was finally outlawed. "*The Three Strangers*", by Thomas Hardy, contains a curious illustration of the time-honored Anglo-American institution of compulsory citizen assistance in search for and capture of a felon (technically known as "posse comitatus").

"*Hippolyte's Claim*", by Guy de Maupassant, deals with a grotesque contract and the lawsuit arising from it. "*Con Cregan's Legacy*", by Charles Lever, tells the tale of an impersonation designed to bring a deceased person to life temporarily for the fraudulent purpose of producing a will made by him. Luigi Pirandello's "*The Madonna's Gift*" describes as unusual a theft case as will be found in the annals of the law. "*The Letter*", by Somerset Maugham, treats with an anomaly in the judicial process. In this case, it also raises a problem of professional ethics.

Is there really such a thing as the unavoidable conviction, and even execution of an innocent? This is dealt with in Leo Tolstoy's "*God Sees The Truth But Waits*". "*Crainquebille*", by Anatole France, reflects on how justice is administered to the poor and underprivileged

in society. "*The Heroism Of Dr. Hallidonhill*", by Villier de L' Isle Adam, is what is commonly known as a "shocking" story. It poses a question that has occurred recently in this century. Is criminal responsibility incurred by a medical man who uses human guinea pigs in the performance of medical experiments? "*Lord Arthur Savile's Crime*", by Oscar Wilde, deals with the so-called "perfect crime." Can it be committed? "*The Cop And The Anthem*", by O Henry, has both humor and pathos within it. Is an unfortunate justified in committing a "small" crime in order to obtain the necessities of life for a short time at the expense of society? Frank O'Connor's "*Legal Aid*" concerns itself with an unusually humorous seduction suit. "*The Dog Andrew*", by Arthur Train, is one of the fine Ephraim Tutt tales. This one is a narrative of a dog-bite trial which eventually leads to a historical discussion of the treatment, in criminal law, of animals themselves and of the human beings responsible for them. "*Mr. Havlena's Verdict*", by Karel Capek, asks a unique question. May actionable slander be perpetrated through the use of the voice of a parrot?

A hilarious treatment of the repealed Prohibition Amendment to the American Constitution and the Volstead Act which implemented it is contained in "*In Re John Walker: Prohibition and Barbarism*", by Sir Alan P. Herbert, the outstanding British satirist and Member of Parliament. Shiga Naoya's "*The Death Of The Knife-Thrower's Wife*", impressively illustrates the difficulty, sometimes encountered in the administration of justice, in distinguishing between accident and criminal deed. Sir Alan P. Herbert takes another roundhouse swing at a sacred cow of the law in "*Fardell v. Potts: The Reasonable Man*". Arthur Train has an excellent second effort with "*His Honor, The Judge*". Against a very fascinating factual background, it deals with a very fine problem of the law of evidence; namely whether the exception to the hearsay rule known as the "dying declaration" exception is limited in its applicability to a declaration of the dying declarant concerning the cause of his own death, or may be extended to his declaration about the cause of another person's death.

A lawyer who abandons his job as assistant district attorney because he believes in the innocence of the accused whom he is supposed to prosecute, and volunteers to become his defense counsel, is the hero

of a less known, but interesting story, "*Doowinkle, Attorney*", by Harry Klingsberg. Sir Alan P. Herbert strikes again with "*The Board of Inland Revenue v. Haddock: The Negotiable Cow*". The pressing legal problem here is whether a negotiable instrument may be written on the hide of a living cow. "*Beyond Any Doubt*", by Bob Bristow, is a fine example of the internal workings of the minds of individual jurors during a murder trial deliberation. "*The Eleventh Juror*", by Vincent Starrett, describes a surprising incident that occurs during the deliberations of a jury in a murder case. "*The Gioconda Smile*" is by the world-famous Aldous Huxley. It well illustrates the fallibility of circumstantial proof of crime. A frustrated woman puts an innocent man in a position of extreme jeopardy *vis-à-vis* the law. Written in the inimitable Huxley style, it makes exciting reading. Henry Slesar's "*Beggars Can Be Choosers*" illustrates how a ruse, legally not improper, but morally questionable, may facilitate the administration of criminal justice. Sir Alan Herbert asks yet another fascinating question in "*Marrowfat v. Marrowfat: Is Marriage Lawful?*" Is marriage a valid contract or is it a gamble?

A multitalented man, Peter Ustinov, has written an unusual story that was well worth inclusion in this anthology. "*There Are 43,200 Seconds In A Day*" shows what happens to an innocent person when that person is caught up in the swirl of a murder and its courtroom aftermath. In this case the story focuses more on the innocent than on the actual crime. Sir Alan Herbert's final bow is made with a tale that is well within the realm of possibility. "*Computer In Court*" discusses the problem of liability under the law of libel for a defamation resulting from the defective operation of a computer. Our last offering is by Lon L. Fuller of the Harvard Law School. It is entitled "*The Case Of The Speluncean Explorers*". In a fictional way it deals with as difficult a problem as can and has been found in the law. Is homicide justifiable if it is committed against one or more of a group of people in a common disaster, which threatens to result in death for all of them? If other members of that group commit the crime in order to increase the chances of survival and rescue of the rest of that group, are they guilty of murder in the ordinary sense?

MAXIMILIAN KOESSLER

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Early Days

GIOVAN-FRANCESCO STRAPAROLA

THE USURER'S WILL

This unusual story is the creation of a 16th century Italian writer, who included it in his book *Delightful Nights*. It relates the story of a testament that is striking because of its extremely cynical character.

IN Como, a little city of Lombardy not very far from Milan, there once dwelt a citizen of the name of Andrigetto da Sabbia, whose immense possessions, surpassing those of any other individual, did not, however, prevent him from adding to them by every means in his power. Being perfectly secure against the attacks of conscience in all his dealings, he was never known to suffer remorse for the most unjustifiable actions. He was in the habit of disposing of the produce of his large estates to the poorer citizens and peasantry, instead of selling it to merchants and others who could command ready money; not from any charitable motives, but in order to obtain possession of their little remaining property, still uniting field after field to the great possessions he had already acquired. It happened that so great a scarcity began to prevail in the city and its vicinity, that many persons actually perished of want, while numbers had recourse to our old usurer for assistance, to whom, from the urgent pressure of circumstances, they were compelled to make over, in return for the necessities of life, such interest as they might possess either in houses or lands. The concourse of people in his neighbourhood was so great as almost to resemble a jubilee or a public fair. Now there was a certain notary, Tonisto Raspante by name, a most notorious and wily practitioner of his art, and more successful than any other of his brethren in emptying the pockets of the poor villagers. He had still, however, so much regard for an ancient law in Como relating to usurious contracts, which required the money lent to be counted in the presence of proper witnesses, as to refuse to draw up such instruments as Andrigetto often directed him to prepare, observing that they were altogether against the form of the statute, and he would not venture to risk the penalty. But such were the overbearing manners of the old miser, and so great was his authority in the city, that sometimes threatening him with ruin, and at other times bribing him to his purpose, he

compelled the attorney to obey his commands. The time for confessing himself being at hand, before presenting himself at the confessional, Andrigetto took care to send to the priest an excellent dinner, with as much of the finest cloth as would make a pair of hose for himself and his servant, announcing at the same time his intention to confess on the ensuing day, when he thought that he was sure of meeting with a favourable hearing. The priest undertook with pleasure the task of absolving from his sins so eminent and rich a citizen, and received his penitent with the utmost cordiality. Andrigetto fell on his knees before his spiritual father, accusing himself with very little ceremony of various sins and errors, not forgetting his usurious and illegal contracts, all which he recounted in the most minute manner. The priest, who had sense enough to perceive the enormous nature of his offences, conceiving himself bound to make some representations on the subject, ventured certain gentle hints on the impropriety of their repetition, and in the meanwhile strongly recommending restitution to the injured parties. Instead of taking this in good part, Andrigetto turned very sharply round upon his confessor, observing that he was at a loss to understand what he meant, and that he had better go, and return no more until he had learned how to confess persons in a more rational manner. The priest owing his preferment in a great measure to Andrigetto, and fearful lest he might lose his favour altogether, began to retract as well as he could, gave him absolution, and then imposing as slight a penance as possible, received a florin for his reward, after which Andrigetto took his leave in very excellent spirits.

Not long after this interview, our old usurer, while rejoicing in this absolution from all his sins, fell ill of a mortal distemper, and the physicians shortly despaired of his life. His friends and relatives having gathered round his bed, took the liberty of suggesting that it was now time to think of a sincere confession, to receive his last spiritual consolation, and make a final arrangement of his affairs, like a good Catholic and a Christian. But the old gentleman, who had hitherto devoted all his thoughts and exertions, both day and night, to the hoarding of his wealth, instead of being at all impressed by the awfulness of his situation, only replied with great levity to their arguments, still amusing himself with arranging the most trifling concerns, and evincing not the least uneasiness at his approaching end. After long entreaties and persuasions, he was at last prevailed upon to comply with their request,

and agreed to summon to his assistance his old agent, Tonisto Raspante the notary, and Father Neofito, his confessor.

On the arrival of these personages, they addressed the patient with a cheerful countenance, telling him to keep up his spirits, for that with God's help he would soon be a sound man again. Andrigetto only replied that he feared he was too far gone for that, and that he had perhaps better lose no time in first settling his worldly affairs and then arranging his ghostly concerns with his confessor. But the good priest, exhorting and comforting him to the best of his ability, advised him first of all to place his sole trust in the Lord, humbly submitting himself to His will, as the safest means of obtaining a restoration to health. To this, however, Andrigetto replied only by ordering seven respectable men to be called in as witnesses of his nuncupative last will and testament. These individuals having been successively presented to the patient, and taken their seats, he proceeded to inquire from his friend Tonisto the very lowest charge which he was in the habit of making for penning a will. "According to the strict rules of the profession," replied Tonisto, "it is only a florin; but in general the amount is decided by the feelings of the testator." "Well, well, then," cried the patient, "take two florins, and set down what I tell you." The notary having invoked the divine name, drew out the preliminaries in the usual manner, bequeathing the body of the testator to the earth and his soul to the hands of God who gave it, with humble thanks for the many favours vouchsafed by Him to His unworthy creature. This exordium being read to Andrigetto, he flew into a violent rage, and commanded the notary to write down nothing but his own words, which he dictated as follows: "I, Andrigetto di Valsabbia, being of sound mind, though infirm of body, do hereby declare this to be my last will and testament: I give and bequeath my soul into the hands of the great Satan, the prince of devils." Hearing these words, the witnesses stood aghast; Raspante's quill started from the paper, and, in evident horror and perturbation, he stopped. Looking the testator very earnestly in the face, he interposed: "Ah! Messer Andrigetto, these are the words of a madman!" "How!" exclaimed Andrigetto, in a violent passion, "what do you mean? How dare you stop? Write word for word as I direct you, and nothing more, or you shall never be paid for a will of mine: proceed, I tell you!" Struck with the greatest horror and surprise, his friends attempted to remonstrate with him, lamenting that he should make use of language so opposite to his usual good sense, language which only madmen or

blasphemers could be capable of using on such a subject and in so awful a situation as his. "Desist, then," they continued, "for Heaven's sake, and consult your honour and the safety of your poor soul. Think of the scandal such a proceeding would bring upon your family, if you, who were esteemed so prudent and so wise, were to make yourself an example of all that is perfidious, ungrateful, and impious towards Heaven."

But Andrigetto paid no further attention to their reproaches than by observing that his business was with his attorney, and that as he had not yet finished his will, they had better take care what they were about; on which there was soon a respectful silence throughout the room. He then turned towards his attorney, requesting to know, in a voice of suppressed passion, whether he was prepared to go on, as he had already offered to pay double the usual charge for his labours. Apprehensive that Andrigetto might expire before he had made a disposition of his property, the notary promised to do as he was required, more especially when he heard the patient beginning to hiccup with the violence of his emotions; so that he was compelled to make a solemn vow to fulfil his client's instructions.

"Item," continued Andrigetto, "I hereby bequeath the wretched soul of my wicked agent, Tonisto Raspante, to the great Satan, in order that it may keep company with mine when it leaves this world, as it shortly must." "The Lord have mercy on me!" cried the poor attorney, shocked at the deep solemnity with which these last words were uttered; "the Lord have mercy on my soul!" and the pen dropped from his hand. "Recall," he continued, "my honoured patron, recall those wicked words; do anything but destroy my eternal interests, my last, my dearest hopes." "Go on, you rogue!" cried the testator, "and do not venture to interrupt me again; do not tell me about your soul. You have your pay, and that is enough; so proceed quickly as I shall direct you. I leave my said attorney's soul to the devil, for this reason, that if he had not consented to draw up so many false and usurious contracts, but had driven me from his presence as soon as I proposed them, I should not now find myself reduced to the sad extremity of leaving both our souls to the king of hell, owing entirely to his shameful cupidity and want of common honesty." The attorney, though trembling at the name of the king of hell, yet fearful lest his patron might enter into further particulars far from creditable to him, wrote as he was commanded.

"Item," continued the patient, "I bequeath the soul of Father Neofito, my confessor, into the claws of Lucifer; aye, to thirty thousand pair of devils." "Stop, Messer Andrigetto, pray stop," cried the priest; "and do not think of applying those dreadful words to me. You ought to put your trust in the Lord, in the Lord Jesus, whose mercies always abound, who came to save sinners, and is still inviting them, night and day, to repentance. He died for our sins, and for your sins, Messer Andrigetto; you have only to beseech pardon, and all will yet be well. The road is still open to restitution; hasten to make restitution, then; for the Lord does not wish the death of a sinner. You have great wealth; remember the Church; you will have masses said for your soul, and may yet sit in the seats of paradise." "Oh, thou wicked and most wretched priest!" retorted the patient, "by thy vile avarice and simony thou hast helped thine own soul, as well as mine, into the pit of perdition. And dost thou now think of advising me to repent? Confusion on thy villainy! Write, notary, that I bequeath his soul to the very centre of the place of torments; for had it not been for his bold and shameless conduct in absolving me from my numerous and repented offences, I should not now find myself in the strange predicament in which I am placed. What! does the rogue think it would be now just to restore my evil-gotten gains, and thus leave my poor family destitute? No, no; I am not quite such a fool as to do that; so please to go on. Item, To my dear lady Felicia I leave my pretty farm, situated in the district of Comacchio, in order to supply herself with the elegancies of life, and occasionally treat her lovers as she has been hitherto in the habit of doing, thus preparing the way further to oblige me with her company in the other world, sharing with us the torments of eternity. The remainder of my property, as well personal as real, with all future interest and proceeds accruing thereon, I leave to my two legitimate and beloved sons, Commodo and Torquato, on condition that they give nothing for a single mass to be said for the soul of the deceased, but that they feast, swear, game, and fight, to the best of their ability, in order that they may the sooner waste their substance so wickedly acquired, until, driven to despair, they may as speedily as possible hang themselves. And this I declare to be my last will and testament, as witnesseth all present, not forgetting my attorney." Having signed this instrument and put his seal to it, Andrigetto turned away his face, and uttering a terrific howl, finally surrendered his impenitent soul to Pluto.

RYUNOSUKE AKUTAGAWA

IN A GROVE

This well known Japanese story is concerned with the fallibility of testimony as manifested here by inconsistent accounts given by several witnesses to the same event.

THE TESTIMONY OF A WOODCUTTER QUESTIONED
BY A HIGH POLICE COMMISSIONER

YES, SIR. Certainly, it was I who found the body. This morning, as usual, I went to cut my daily quota of cedars, when I found the body in a grove in a hollow in the mountains. The exact location? About 150 meters off the Yamashina stage road. It's an out-of-the-way grove of bamboo and cedars.

The body was lying flat on its back dressed in a bluish silk kimono and a wrinkled head-dress of the Kyoto style. A single sword-stroke had pierced the breast. The fallen bamboo-blades around it were stained with bloody blossoms. No, the blood was no longer running. The wound had dried up, I believe. And also, a gad-fly was stuck fast there, hardly noticing my footsteps.

You ask me if I saw a sword or any such thing?

No, nothing, sir. I found only a rope at the root of a cedar near by. And . . . well, in addition to a rope, I found a comb. That was all. Apparently he must have made a battle of it before he was murdered, because the grass and fallen bamboo-blades had been trampled down all around.

"A horse was near by?"

No, sir. It's hard enough for a man to enter, let alone a horse.

THE TESTIMONY OF A TRAVELING BUDDHIST PRIEST
QUESTIONED BY A HIGH POLICE COMMISSIONER

The time? Certainly, it was about noon yesterday, sir. The unfortunate man was on the road from Sekiyama to Yamashina. He

was walking toward Sekiyama with a woman accompanying him on horseback, who I have since learned was his wife. A scarf hanging from her head hid her face from view. All I saw was the color of her clothes, a lilac-colored suit. Her horse was a sorrel with a fine mane. The lady's height? Oh, about four feet five inches. Since I am a Buddhist priest, I took little notice about her details. Well, the man was armed with a sword as well as a bow and arrows. And I remember that he carried some twenty odd arrows in his quiver.

Little did I expect that he would meet such a fate. Truly human life is as evanescent as the morning dew or a flash of lightning. My words are inadequate to express my sympathy for him.

THE TESTIMONY OF A POLICEMAN QUESTIONED
BY A HIGH POLICE COMMISSIONER

The man that I arrested? He is a notorious brigand called Tajomaru. When I arrested him, he had fallen off his horse. He was groaning on the bridge at Awataguchi. The time? It was in the early hours of last night. For the record, I might say that the other day I tried to arrest him, but unfortunately he escaped. He was wearing a dark blue silk kimono and a large plain sword. And, as you see, he got a bow and arrows somewhere. You say that this bow and these arrows look like the ones owned by the dead man? Then Tajomaru must be the murderer. The bow wound with leather strips, the black lacquered quiver, the seventeen arrows with hawk feathers—these were all in his possession I believe. Yes, sir, the horse is, as you say, a sorrel with a fine mane. A little beyond the stone bridge I found the horse grazing by the roadside, with his long rein dangling. Surely there is some providence in his having been thrown by the horse.

Of all the robbers prowling around Kyoto, this Tajomaru has given the most grief to the women in town. Last autumn a wife who came to the mountain back of the Pindora of the Toribe Temple, presumably to pay a visit, was murdered, along with a girl. It has been suspected that it was his doing. If this criminal murdered the man, you cannot tell what he may have done with the man's wife. May it please your honor to look into this problem as well.

THE TESTIMONY OF AN OLD WOMAN QUESTIONED
BY A HIGH POLICE COMMISSIONER

Yes, sir, that corpse is the man who married my daughter. He does not come from Kyoto. He was a samurai in the town of Kokufu in the province of Wakasa. His name was Kanazawa no Takehiko, and his age was twenty-six. He was of a gentle disposition, so I am sure he did nothing to provoke the anger of others.

My daughter? Her name is Masago, and her age is nineteen. She is a spirited, fun-loving girl, but I am sure she has never known any man except Takehiko. She has a small, oval, dark-complected face with a mole at the corner of her left eye.

Yesterday Takehiko left for Wakasa with my daughter. What bad luck it is that things should have come to such a sad end! What has become of my daughter? I am resigned to giving up my son-in-law as lost, but the fate of my daughter worries me sick. For heaven's sake leave no stone unturned to find her. I hate that robber Tajomaru, or whatever his name is. Not only my son-in-law, but my daughter . . . (Her later words were drowned in tears.)

TAJOMARU'S CONFESSION

I killed him, but not her. Where's she gone? I can't tell. Oh, wait a minute. No torture can make me confess what I don't know. Now things have come to such a head, I won't keep anything from you.

Yesterday a little past noon I met that couple. Just then a puff of wind blew, and raised her hanging scarf, so that I caught a glimpse of her face. Instantly it was again covered from my view. That may have been one reason; she looked like a Bodhisattva. At that moment I made up my mind to capture her even if I had to kill her man.

Why? To me killing isn't a matter of such great consequence as you might think. When a woman is captured, her man has to be killed anyway. In killing, I use the sword I wear at my side. Am I the only one who kills people? You, you don't use your swords. You kill people with your power, with your money. Sometimes you kill them on the pretext of working for their good. It's true they don't bleed. They are in the best of health, but all the same you've killed them. It's hard to say who is a greater sinner, you or me. (An ironical smile.)

But it would be good if I could capture a woman without killing her man. So, I made up my mind to capture her, and do my best not to kill him. But it's out of the question on the Yamashina stage road. So I managed to lure the couple into the mountains.

It was quite easy. I became their traveling companion, and I told them there was an old mound in the mountain over there, and that I had dug it open and found many mirrors and swords. I went on to tell them I'd buried the things in a grove behind the mountain, and that I'd like to sell them at a low price to anyone who would care to have them. Then . . . you see, isn't greed terrible? He was beginning to be moved by my talk before he knew it. In less than half an hour they were driving their horse toward the mountain with me.

When he came in front of the grove, I told them that the treasures were buried in it, and I asked them to come and see. The man had no objection—he was blinded by greed. The woman said she would wait on horseback. It was natural for her to say so, at the sight of a thick grove. To tell you the truth, my plan worked just as I wished, so I went into the grove with him, leaving her behind alone.

The grove is only bamboo for some distance. About fifty yards ahead there's a rather open clump of cedars. It was a convenient spot for my purpose. Pushing my way through the grove, I told him a plausible lie that the treasures were buried under the cedars. When I told him this, he pushed his laborious way toward the slender cedar visible through the grove. After a while the bamboo thinned out, and we came to where a number of cedars grew in a row. As soon as we got there, I seized him from behind. Because he was a trained, sword-bearing warrior, he was quite strong, but he was taken by surprise, so there was no help for him. I soon tied him up to the root of a cedar. Where did I get a rope? Thank heaven, being a robber, I had a rope with me, since I might have to scale a wall at any moment. Of course it was easy to stop him from calling out by gagging his mouth with fallen bamboo leaves.

When I disposed of him, I went to his woman and asked her to come and see him, because he seemed to have been suddenly taken sick. It's needless to say that this plan also worked well. The woman, her sedge hat off, came into the depths of the grove, where I led her by the hand. The instant she caught sight of her husband, she

drew a small sword. I've never seen a woman of such violent temper. If I'd been off guard, I'd have got a thrust in my side. I dodged, but she kept on slashing at me. She might have wounded me deeply or killed me. But I'm Tajomaru. I managed to strike down her small sword without drawing my own. The most spirited woman is defenseless without a weapon. At least I could satisfy my desire for her without taking her husband's life.

Yes, . . . without taking his life. I had no wish to kill him. I was about to run away from the grove, leaving the woman behind in tears, when she frantically clung to my arm. In broken fragments of words, she asked that either her husband or I die. She said it was more trying than death to have her shame known to two men. She gasped out that she wanted to be the wife of whichever survived. Then a furious desire to kill him seized me. (Gloomy excitement.)

Telling you in this way, no doubt I seem a crueler man than you. But that's because you didn't see her face. Especially her burning eyes at that moment. As I saw her eye to eye, I wanted to make her my wife even if I were to be struck by lightning. I wanted to make her my wife . . . this single desire filled my mind.' This was not only lust, as you might think. At that time if I'd had no other desire than lust, I'd surely not have minded knocking her down and running away. Then I wouldn't have stained my sword with his blood. But the moment I gazed at her face in the dark grove, I decided not to leave there without killing him.

But I didn't like to resort to unfair means to kill him. I untied him and told him to cross swords with me. (The rope that was found at the root of the cedar is the rope I dropped at the time.) Furious with anger, he drew his thick sword. And quick as thought, he sprang at me ferociously, without speaking a word. I needn't tell you how our fight turned out. The twenty-third stroke . . . please remember this. I'm impressed with this fact still. Nobody under the sun has ever clashed swords with me twenty strokes. (A cheerful smile.)

When he fell, I turned toward her, lowering my blood-stained sword. But to my great astonishment she was gone. I wondered to where she had run away. I looked for her in the clump of cedars. I listened, but heard only a groaning sound from the throat of the dying man.

As soon as we started to cross swords, she may have run away through the grove to call for help. When I thought of that, I decided it was a matter of life and death to me. So, robbing him of his sword, and bow and arrows, I ran out to the mountain road. There I found her horse still grazing quietly. It would be a mere waste of words to tell you the later details, but before I entered town I had already parted with the sword. That's all my confession. I know that my head will be hung in chains anyway, so put me down for the maximum penalty. (A defiant attitude.)

THE CONFESSION OF A WOMAN WHO HAS COME TO THE
Shimizu TEMPLE

That man in the blue silk kimono, after forcing me to yield to him, laughed mockingly as he looked at my bound husband. How horrified my husband must have been! But no matter how hard he struggled in agony, the rope cut into him all the more tightly. In spite of myself I ran stumblingly toward his side. Or rather I tried to run toward him, but the man instantly knocked me down. Just at that moment I saw an indescribable light in my husband's eyes. Something beyond expression . . . his eyes make me shudder even now. That instantaneous look of my husband, who couldn't speak a word, told me all his heart. The flash in his eyes was neither anger nor sorrow . . . only a cold light, a look of loathing. More struck by the look in his eyes than by the blow of the thief, I called out in spite of myself and fell unconscious.

In the course of time I came to, and found that the man in blue silk was gone. I saw only my husband still bound to the root of the cedar. I raised myself from the bamboo-blades with difficulty, and looked into his face; but the expression in his eyes was just the same as before.

Beneath the cold contempt in his eyes, there was hatred. Shame, grief, and anger . . . I don't know how to express my heart at that time. Reeling to my feet, I went up to my husband.

"Takejiro," I said to him, "since things have come to this pass, I cannot live with you. I'm determined to die, . . . but you must die, too. You saw my shame. I can't leave you alive as you are."

This was all I could say. Still he went on gazing at me with loathing and contempt. My heart breaking, I looked for his sword. It must have been taken by the robber. Neither his sword nor his bow and arrows were to be seen in the grove. But fortunately my small sword was lying at my feet. Raising it over head, once more I said, "Now give me your life. I'll follow you right away."

When he heard these words, he moved his lips with difficulty. Since his mouth was stuffed with leaves, of course his voice could not be heard at all. But at a glance I understood his words. Despising me, his look said only, "Kill me." Neither conscious nor unconscious, I stabbed the small sword through the lilac-colored kimono into his breast.

Again at this time I must have fainted. By the time I managed to look up, he had already breathed his last—still in bonds. A streak of sinking sunlight streamed through the clump of cedars and bamboos, and shone on his pale face. Gulping down my sobs, I untied the rope from his dead body. And . . . and what has become of me since I have no more strength to tell you. Anyway I hadn't the strength to die. I stabbed my own throat with the small sword, I threw myself into a pond at the foot of the mountain, and I tried to kill myself in many ways. Unable to end my life, I am still living in dishonor. (A lonely smile.) Worthless as I am, I must have been forsaken even by the most merciful Kwannon. I killed my own husband. I was violated by the robber. Whatever can I do? Whatever can I . . . I . . . (Gradually, violent sobbing.)

THE STORY OF THE MURDERED MAN, AS TOLD THROUGH A MEDIUM

After violating my wife, the robber, sitting there, began to speak comforting words to her. Of course I couldn't speak. My whole body was tied fast to the root of a cedar. But meanwhile I winked at her many times, as much as to say "Don't believe the robber." I wanted to convey some such meaning to her. But my wife, sitting dejectedly on the bamboo leaves, was looking hard at her lap. To all appearances, she was listening to his words. I was agonized by jealousy. In the meantime the robber went on with his clever talk, from one subject to another. The robber finally made his bold, brazen proposal. "Once

your virtue is stained, you won't get along well with your husband, so won't you be my wife instead? It's my love for you that made me be violent toward you."

While the criminal talked, my wife raised her face as if in a trance. She had never looked so beautiful as at that moment. What did my beautiful wife say in answer to him while I was sitting bound there? I am lost in space, but I have never thought of her answer without burning with anger and jealousy. Truly she said, . . . "Then take me away with you wherever you go."

This is not the whole of her sin. If that were all, I would not be tormented so much in the dark. When she was going out of the grove as if in a dream, her hand in the robber's, she suddenly turned pale, and pointed at me tied to the root of the cedar, and said, "Kill him! I cannot marry you as long as he lives." "Kill him!" she cried many times, as if she had gone crazy. Even now these words threaten to blow me headlong into the bottomless abyss of darkness. Has such a hateful thing come out of a human mouth ever before? Have such cursed words ever struck a human ear, even once? Even once such a . . . (A sudden cry of scorn.) At these words the robber himself turned pale. "Kill him," she cried, clinging to his arms. Looking hard at her, he answered neither yes or no . . . but hardly had I thought about his answer before she had been knocked down into the bamboo leaves. (Again a cry of scorn.) Quietly folding his arms, he looked at me and said, "What will you do with her? Kill her or save her? You have only to nod. Kill her?" For these words alone I would like to pardon his crime.

While I hesitated, she shrieked and ran into the depths of the grove. The robber instantly snatched at her, but he failed even to grasp her sleeve.

After she ran away, he took up my sword, and my bow and arrows. With a single stroke he cut one of my bonds. I remember his mumbling, "My fate is next." Then he disappeared from the grove. All was silent after that. No, I heard someone crying. Untying the rest of my bonds, I listened carefully, and I noticed that it was my own crying. (Long silence.)

I raised my exhausted body from the root of the cedar. In front of me there was shining the small sword which my wife had dropped.

I took it up and stabbed it into my breast. A bloody lump rose to my mouth, but I didn't feel any pain. When my breast grew cold, everything was as silent as the dead in their graves. What profound silence! Not a single bird-note was heard in the sky over this grave in the hollow of the mountains. Only a lonely light lingered on the cedars and mountains. By and by the light gradually grew fainter, till the cedars and bamboo were lost to view. Lying there, I was enveloped in deep silence.

Then someone crept up to me. I tried to see who it was. But darkness had already been gathering round me. Someone . . . that someone drew the small sword softly out of my breast in its invisible hand. At the same time once more blood flowed into my mouth. And once and for all I sank down into the darkness of space.

STEEN STEENSEN BLICHER

THE RECTOR OF VEILBYE

Blicher (1782–1848) was a Danish clergyman whose literary creations were acclaimed far beyond the borders of Denmark. Justly celebrated is his short story reproduced here. Blicher, inspired by a 17th century Danish case, describes the conviction and execution of a clergyman who, though innocent of the crime he is accused of, ultimately breaks down and confesses to what he believes he has done: the circumstantial evidence, although fabricated by his personal enemy, is persuasive even to him. A translation of this internationally known story, different from the one that follows, is part of the book, *Twelve Stories by Steen Steensen Blicher*, published in 1945 by the Princeton University Press. More recently the same story is told in the 1959 novel, *The Trial of Soren Quist*, by the American author Janet Lewis.

THESE extracts from the diary of Erik Sørensen, District Judge, followed by two written statements by the rector of Aalsö, give a complete picture of the terrible events that took place in the parish of Veilbye during Judge Sørensen's first year of office. Should anyone be inclined to doubt the authenticity of these documents let him at least have no doubt about the story, which is, alas! only too sadly true. The memory of these events is still fresh in the district, and the events themselves have been the direct cause of a change in the method of criminal trials. A suspected murderer is now tried through all the courts before his conviction can be determined. Readers versed in the history of law will doubtless know by this during what epoch the story is laid.

I

[From the Diary of District Judge Erik Sorensen.]

Now am I, unworthy one, by the grace of God made judge over this district. May the Great Judge above give me wisdom and uprightness that I may fulfill my difficult task in all humility! From the Lord alone cometh judgment.

It is not good that man should live alone. Now that I am able to support a wife I will look about me for a helpmeet. I hear much good said about the daughter of the Rector of Veilbye. Since her mother's death she has been a wise and economical keeper of her father's house. And as she and her brother the student are the only children, she will inherit a tidy sum when the old man dies.

Morten Bruus of Ingvorstrup was here to-day and wanted to make me a present of a fat calf. But I answered him in the words of Moses, "Cursed be he who taketh gifts." He is of a very quarrelsome nature, a sharp bargainer, and a boastful talker. I do not want to have any dealings with him, except through my office as judge.

I have prayed to God for wisdom and I have consulted with my own heart, and I believe that Mistress Mette Quist is the only woman with whom I could live and die. But I will watch her for a time in secret. Beauty is deceptive and charm is a dangerous thing. But I must say that she is the most beautiful woman I have yet seen.

I think that Morten Bruus a very disagreeable person—I scarcely know why myself. But whenever I see him something comes over me, something that is like the memory of an evil dream. And yet it is so vague and so faint, that I could not say whether I had really ever seen the man in my dreams or not. It may be a sort of presentiment of evil; who knows?

He was here again and offered me a pair of horses—beautiful animals—at a ridiculously low price. It looked queer to me. I know that he paid seventy thalers for them, and he wanted to let me have them for the same price. They are at the least worth one hundred thalers, if not more. Was it intended for a bribe? He may have another lawsuit pending. I do not want his horses.

I paid a visit to the Rector of Veilbye to-day. He is a fine, God-fearing man, but somewhat quick-tempered and dictatorial. And he is close with his money, too, as I could see. Just as I arrived a peasant was with him trying to be let off the payment of part of his tithe. The man is surely a rogue, for the sum is not large. But the rector talked to him as I wouldn't have talked to a dog, and the more he talked, the more violent he became.

Well, we all have our faults. The rector meant well in spite of his violence, for later on he told his daughter to give the man a sandwich and a good glass of beer. She is certainly a charming and sensible girl. She greeted me in a modest and friendly manner, and my heart beat so that I could scarcely say a word in reply. My head farm hand served in the rectory three years. I will question him,—one often hears a straight and true statement from servants.

A surprise! My farm hand Rasmus tells me that Morten Bruus came a-wooing to the rectory at Veilbye some years back, but was sent away with a refusal. The rector seemed to be pleased with him, for the man is rich. But his daughter would not hear to it at all. Pastor Sören may have tried hard to persuade her to consent at first. But when he saw how much she disliked the man he let her do as she would. It was not pride on her part, Rasmus said, for she is as simple and modest as she is good and beautiful. And she knows that her own father is peasant-born as well as Bruus.

Now I know what the Ingvorstrup horses were intended for. They were to blind the judge and to lead him aside from the narrow path of righteousness. The rich Morten Bruus covets poor Ole Anderson's peat moor and pasture land. It would have been a good bargain for Morten even at seventy thalers. But no indeed, my good fellow, you don't know Erik Sörensen!

Rector Sören Quist of Veilbye came to see me this morning. He has a new coachman, Niels Bruus, brother to the owner of Ingvorstrup. Niels is lazy and impertinent. The rector wanted him arrested, but he had no witnesses to back up his complaint. I advised him to get rid of the man somehow, or else to get along with him the best he could until the latter's time was up. The rector was somewhat hasty at first, but later on he listened calmly and thanked me for my good advice. He is inclined to be violent at times, but can always be brought to listen to reason. We parted good friends.

I spent a charming day in Veilbye yesterday. The rector was not at home, but Mistress Mette received me with great friendliness. She sat by the door spinning when I arrived, and it seemed to me that she blushed. It was hardly polite for me to wait so long before speaking. When I sit in judgment I never lack for words, but in the presence of this innocent maiden I am as stupid as the veriest simpleton of a chicken thief. But I finally found my voice and the time passed quickly until the rector's return. Then Mistress Mette left us and did not return until she brought in our supper.

Just as she stepped through the doorway the rector was saying to me, "Isn't it about time that you should think of entering into the holy estate of matrimony?" (We had just been speaking of a recent very fine wedding in the neighborhood.) Mistress Mette heard the words

and flushed a deep red. Her father laughed and said to her, "I can see, my dear daughter, that you have been standing before the fire."

I shall take the good man's advice and will very soon try my fate with her. For I think I may take the rector's words to be a secret hint that he would not object to me as a son-in-law. And the daughter? Was her blush a favorable sign?

Poor Ole Anderson keeps his peat moor and his pasture land, but rich Morten Bruus is angry at me because of it. When he heard the decision he closed his eyes and set his lips tight, and his face was as pale as a whitewashed wall. But he controlled himself and as he went out he called back to his adversary, "Wish you joy of the bargain, Ole Anderson. The peat bog won't beggar me, and the cattle at Ingvorstrup have all the hay they can eat." I could hear his loud laughter outside and the cracking of his whip. It is not easy to have to sit in judgment. Every decision makes but one enemy the more.

Yesterday was the happiest day of my life. We celebrated our betrothal in the Rectory of Veilbye. My future father-in-law spoke to the text, "I gave my handmaid into thy bosom" (Genesis xvi, 5). His words touched my heart. I had not believed that this serious and sometimes brusque man could talk so sweetly. When the solemnity was over, I received the first kiss from my sweet betrothed, and the assurance of her great love for me.

At supper and later on we were very merry. Many of the dead mother's kin were present. The rector's family were too far away. After supper we danced until daybreak and there was no expense spared in the food and wine. My future father-in-law was the strongest man present, and could easily drink all the others under the table. The wedding is to take place in six weeks. God grant us rich blessings.

It is not good that my future father-in-law should have this Niels Bruus in his service. He is a defiant fellow, a worthy brother of him of Ingvorstrup. If it were I, he should have his wages and be turned off, the sooner the better. But the good rector is stubborn and insists that Niels shall serve out his time. The other day he gave the fellow a box on the ear, at which Niels cried out that he would make him pay for it. The rector told me of this himself, for no one else had been present. I talked to Niels, but he would scarcely answer me. I fear he has a stubborn and evil nature. My sweet betrothed also entreats

her father to send the fellow away, but the rector will not listen to reason. I do not know what the old man will do when his daughter leaves his home for mine. She saves him much worry and knows how to make all things smooth and easy. She will be a sweet wife for me.

As I thought, it turned out badly. But there is one good thing about it, Niels has now run off of himself. The rector is greatly angered, but I rejoice in secret that he is rid of that dangerous man. Bruus will probably seek retaliation, but we have law and justice in the land to order such matters.

This was the way of it: The rector had ordered Niels to dig up a bit of soil in the garden. After a time when he went out himself to look at the work, he found Niels leaning on his spade eating nuts. He had not even begun to dig. The rector scolded him, but the fellow answered that he had not taken service as a gardener. He received a good box on the ear for that. At this he threw away his spade and swore valiantly at his master. The old rector lost his temper entirely, seized the spade and struck at the man several times. He should not have done this, for a spade is a dangerous weapon, especially in the hands of a man as strong as is the pastor in spite of his years. Niels fell to the ground as if dead. But when the pastor bent over him in alarm, he sprang up suddenly, jumped the hedge and ran away to the woods.

This is the story of the unfortunate affair as my father-in-law tells it to me. My beloved Mette is much worried about it. She fears the man may do harm to the cattle, or set fire to the house, or in some such way take his revenge. But I tell her there is little fear of that.

Three weeks more and my beloved leaves her father's house for mine. She has been here and has gone over the house and the farm. She is much pleased with everything and praises our orderliness. She is an angel, and all who know her say that I am indeed a fortunate man. To God be the praise!

Strange, where that fellow Niels went to! Could he have left the country altogether? It is an unpleasant affair in any case, and there are murmurings and secret gossip among the peasants. The talk has doubtless started in Ingvorstrup. It would not be well to have the rector hear it. He had better have taken my advice, but it is not my province to school a servant of God, and a man so much older than I.

The idle gossip may blow over ere long. I will go to Veilbye to-morrow and find out if he has heard anything.

The bracelet the goldsmith has made for me is very beautiful. I am sure it will please my sweet Mette.

My honored father-in-law is much distressed and down-hearted. Malicious tongues have repeated to him the stupid gossip that is going about in the district. Morten Bruus is reported to have said that "he would force the rector to bring back his brother, if he had to dig him out of the earth." The fellow may be in hiding somewhere, possibly at Ingvorstrup. He has certainly disappeared completely, and no one seems to know where he is. My poor betrothed is much grieved and worried. She is alarmed by bad dreams and by presentiments of evil to come.

God have mercy on us all! I am so overcome by shock and horror that I can scarcely hold the pen. It has all come in one terrible moment, like a clap of thunder. I take no account of time, night and morning are the same to me and the day is but a sudden flash of lightning destroying the proud castle of my hopes and desires. A venerable man of God—the father of my betrothed—is in prison! And as a suspected murderer! There is still hope that he may be innocent. But this hope is but as a straw to a drowning man. A terrible suspicion rests upon him— And I, unhappy man that I am, must be his judge. And his daughter is my betrothed bride! May the Saviour have pity on us!

It was yesterday that this horrible thing came. About half an hour before sunrise Morten Bruus came to my house and had with him the cotter Jens Larsen of Veilbye, and the widow and daughter of the shepherd of that parish. Morten Bruus said to me that he had the Rector of Veilbye under suspicion of having killed his brother Niels. I answered that I had heard some such talk but had regarded it as idle and malicious gossip, for the rector himself had assured me that the fellow had run away. "If that was so," said Morten, "if Niels had really intended to run away, he would surely at first come to me to tell me of it. But it is not so, as these good people can prove to you, and I demand that you shall hear them as an officer of the law."

"Think well of what you are doing," I said. "Think it over well, Morten Bruus, and you, my good people. You are bringing a terrible

accusation against a respected and unspotted priest and man of God. If you can prove nothing, as I strongly suspect, your accusations may cost you dear."

"Priest or no priest," cried Bruus, "it is written, 'thou shalt not kill!' And also is it written, that the authorities bear the sword of justice for all men. We have law and order in the land, and the murderer shall not escape his punishment, even if he have the district judge for a son-in-law."

I pretended not to notice his thrust and began, "It shall be as you say. Kirsten Mads' daughter, what is it that you know of this matter in which Morten Bruus accuses your rector? Tell the truth, and the truth only, as you would tell it before the judgment seat of the Almighty. The law will demand from you that you shall later repeat your testimony under oath."

The woman told the following story: The day on which Niels Bruus was said to have run away from the rectory, she and her daughter were passing along the road near the rectory garden a little after the noon hour. She heard some one calling and saw that it was Niels Bruus looking out through the garden hedge. He asked the daughter if she did not want some nuts and told the women that the rector had ordered him to dig in the garden, but that he did not take the command very seriously and would much rather eat nuts. At that moment they heard a door open in the house and Niels said, "Now I'm in for a scolding." He dropped back behind the hedge and the women heard a quarrel in the garden. They could hear the words distinctly but they could see nothing, as the hedge was too high. They heard the rector cry, "I'll punish you, you dog. I'll strike you dead at my feet!" Then they heard several sounding slaps, and they heard Niels curse back at the rector and call him evil names. The rector did not answer this, but the women heard two dull blows and saw the head of a spade and part of the handle rise and fall twice over the hedge. Then it was very quiet in the garden, and the widow and her daughter were frightened and hurried on to their cattle in the field. The daughter gave the same testimony, word for word. I asked them if they had not seen Niels Bruus coming out of the garden. But they said they had not, although they had turned back several times to look.

This accorded perfectly with what the rector had told me. It was not strange that the women had not seen the man run out of the garden, for he had gone toward the wood which is on the opposite side of the garden from the highroad. I told Morten Bruus that this testimony was no proof of the supposed murder, especially as the rector himself had narrated the entire occurrence to me exactly as the women had described it. But he smiled bitterly and asked me to examine the third witness, which I proceeded to do.

Jens Larsen testified that he was returning late one evening from Tolstrup (as he remembered, it was not the evening of Niels Bruus's disappearance, but the evening of the following day), and was passing the rectory garden on the easterly side by the usual footpath. From the garden he heard a noise as of some one digging in the earth. He was frightened at first for it was very late, but the moon shone brightly and he thought he would see who it was that was at work in the garden at that hour. He put off his wooden shoes and pushed aside the twigs of the hedge until he had made a peep hole. In the garden he saw the rector in his usual house coat, a white woolen nightcap on his head. He was busily smoothing down the earth with the flat of his spade. There was nothing else to be seen. Just then the rector had started and partly turned toward the hedge, and the witness, fearing he might be discovered, slipped down and ran home hastily.

Although I was rather surprised that the rector should be working in his garden at so late an hour, I still saw nothing in this statement that could arouse suspicion of murder. I gave the complainant a solemn warning and advised him not only to let fall his accusation, but to put an end to the talk in the parish. He replied, "Not until I see what it is that the rector buried in his garden."

"That will be too late," I said. "You are playing a dangerous game. Dangerous to your own honor and welfare."

"I owe it to my brother," he replied, "and I demand that the authorities shall not refuse me assistance."

My office compelled me to accede to his demands. Accompanied by the accuser and his witnesses I took my way to Veilbye. My heart was very heavy, not so much because of any fear that we might find the missing man buried in the garden, but because of the surprise and

distress I must cause the rector and my beloved. As we went on our way I thought over how severely the law would allow me to punish the calumniators. But alas, Merciful Heavens! What a terrible discovery was in store for me!

I had wished to have a moment alone with the rector to prepare him for what was coming. But as I drove through the gate Morten Bruus spurred his horse past me and galloped up to the very door of the house just as the rector opened it. Bruus cried out in his very face, "People say that you have killed my brother and buried him in your garden. I am come with the district judge to seek for him."

The poor rector was so shocked and astounded that he could not find a word to answer. I sprang from my wagon and addressed him: "You have now heard the accusation. I am forced by my office to fulfill this man's demands. But your own honor demands that the truth shall be known and the mouth of slander silenced."

"It is hard enough," began the rector finally, "for a man in my position to have to clear himself from such a suspicion. But come with me. My garden and my entire house are open to you."

We went through the house to the garden. On the way we met my betrothed, who was startled at seeing Bruus. I managed to whisper hastily to her, "Do not be alarmed, dear heart. Your enemies are going to their own destruction." Morten Bruus led the way to the eastern side of the garden near the hedge. We others followed with the rector's farm hands, whom he himself had ordered to join us with spades.

The accuser stood and looked about him until we approached. Then he pointed to one spot. "This looks as if the earth had been disturbed lately. Let us begin here."

"Go to work at once," commanded the rector angrily.

The men set to work, but they were not eager enough to suit Bruus, who seized a spade himself to fire them on. A few strokes only sufficed to show that the firm earth of this particular spot had not been touched for many years. We all rejoiced—except Bruus—and the rector was very happy. He triumphed openly over his accuser, and laughed at him, "Can't you find anything, you libeler?"

Bruus did not answer. He pondered for a few moments, then called out, "Jens Larsen, where was it you saw the rector digging?"

Jens Larsen had been standing to one side with his hands folded, watching the work. At Bruus's words he aroused himself as if from a dream, looked about him and pointed to a corner of the garden several yards from where we stood. "I think it was over there."

"What's that, Jens!" cried the rector angrily. "When did I dig here?"

Paying no heed to this, Morten Bruus called the men to the corner in question. The earth here was covered by some withered cabbage stalks, broken twigs, and other brush which he pushed aside hurriedly. The work began anew.

I stood by the rector talking calmly with him about the punishment we could mete out to the dastardly accuser, when one of the men suddenly cried out with an oath. We looked toward them; there lay a hat half buried in the loose earth. "We have found him," cried Bruus. "That is Niels's hat; I would know it anywhere."

My blood seemed turned to ice. All my hopes dashed to the ground. "Dig! Dig!" cried the bloodthirsty accuser, working himself with all his might. I looked at the rector. He was ghastly pale, staring with wide-open eyes at the horrible spot.

Another shout! A hand was stretched up through the earth as if to greet the workers. "See there!" screamed Bruus. "He is holding out his hand to me. Wait a little, Brother Niels! You will soon be avenged!"

The entire corpse was soon uncovered. It was the missing man. His face was not recognizable, as decomposition had begun, and the nose was broken and laid flat by a blow. But all the garments, even to the shirt with his name woven into it, were known to those who stood there. In one ear was a leaden ring, which, as we all knew, Niels Bruus had worn for many years.

"Now, priest," cried Morten Bruus, "come and lay your hand on this dead man if you dare to!"

"Almighty God!" sighed the rector, looking up to heaven, "Thou art my witness that I am innocent. I struck him, that I confess, and I am bitterly sorry for it. But he ran away. God Almighty alone knows who buried him here."

"Jens Larsen knows also," cried Bruus, "and I may find more wit-

nesses. Judge! You will come with me to examine his servants. But first of all I demand that you shall arrest this wolf in sheep's clothing."

Merciful God, how could I doubt any longer? The truth was clear to all of us. But I was ready to sink into the earth in my shock and horror. I was about to say to the rector that he must prepare to follow me, when he himself spoke to me, pale and trembling like an aspen leaf. "Appearances are against me," he said, "but this is the work of the devil and his angels. There is One above who will bring my innocence to light. Come, judge, I will await my fate in fetters. Comfort my daughter. Remember that she is your betrothed bride."

He had scarcely uttered the words when I heard a scream and a fall behind us. It was my beloved who lay unconscious on the ground. I thought at first that she was dead, and God knows I wished that I could lie there dead beside her. I raised her in my arms, but her father took her from me and carried her into the house. I was called to examine the wound on the dead man's head. The cut was not deep, but it had evidently fractured the skull, and had plainly been made by a blow from a spade or some similar blunt instrument.

Then we all entered the house. My beloved had revived again. She fell on my neck and implored me, in the name of God, to help her father in his terrible need. She begged me by the memory of our mutual love to let her follow him to prison, to which I consented. I myself accompanied him to Grenaa, but with a mournful heart. None of us spoke a word on the sad journey. I parted from them in deep distress. The corpse was laid in a coffin and will be buried decently to-morrow in Veilbye churchyard.

To-morrow I must give a formal hearing to the witnesses. God be merciful to me, unfortunate man!

Would that I had never obtained this position for which I—fool that I am—strove so hard.

As the venerable man of God was brought before me, fettered hand and foot, I felt as Pilate must have felt as they brought Christ before him. It was to me as if my beloved—God grant her comfort, she lies ill in Grenaa—had whispered to me, "Do nothing against that good man!"

Oh, if he only were innocent, but I see no hope!

The three first witnesses repeated their testimony under oath, word for word. Then came statements by the rector's two farm hands and the dairy maid. The men had been in the kitchen on the fatal day, and as the windows were open they had heard the quarrel between the rector and Niels. As the widow had stated, these men had also heard the rector say, "I will strike you dead at my feet!" They further testified that the rector was very quick-tempered, and that when angered he did not hesitate to strike out with whatever came into his hand. He had struck a former hand once with a heavy maul.

The girl testified that on the night Jens Larsen claimed to have seen the rector in the garden, she had lain awake and heard the creaking of the garden door. When she looked out of the window she had seen the rector in his dressing gown and nightcap go into the garden. She could not see what he was doing there. But she heard the door creak again about an hour later.

When the witnesses had been heard, I asked the unfortunate man whether he would make a confession, or else, if he had anything to say in his own defense. He crossed his hands over his breast and said, "So help me God, I will tell the truth. I have nothing more to say than what I have said already. I struck the dead man with my spade. He fell down, but jumped up in a moment and ran away from the garden out into the woods. What may have happened to him there, or how he came to be buried in my garden, this I do not know. When Jens Larsen and my servant testify that they saw me at night in the garden, either they are lying, or Satan has blinded them. I can see this—unhappy man that I am—that I have no one to turn to for help here on earth. Will He who is in heaven be silent also, then must I bow to His inscrutable will." He bowed his head with a deep sigh.

Some of those present began to weep, and a murmur arose that he might possibly be innocent. But this was only the effect of the momentary sympathy called out by his attitude. My own heart indeed spoke for him. But the judge's heart may not dare to dictate to his brain or to his conscience. My conviction forced me to declare that the rector had killed Niels Bruus, but certainly without any premeditation or intention to do so. It is true that Niels Bruus had often been heard to declare that he would "get even with the rector when the latter least

expected it." But it is not known that he had fulfilled his threat in any way. Every man clings to life and honor as long as he can. Therefore the rector persists in his denial. My poor, dear Mette! She is lost to me for this life at least, just as I had learned to love her so dearly.

I have had a hard fight to fight to-day. As I sat alone, pondering over this terrible affair in which it is my sad lot to have to give judgment, the door opened and the rector's daughter—I may no longer call her my betrothed—rushed in and threw herself at my feet. I raised her up, clasped her in my arms and we wept together in silence. I was first to control myself. "I know what you would say, dear heart. You want me to save your father. Alas, God help us poor mortals, I cannot do it! Tell me, dearest one, tell me truly, do you yourself believe your father to be innocent?"

She crossed her hands on her heart and sobbed, "I do not know!" Then she burst into tears again. "But he did not bury him in the garden," she continued after a few moments. "The man may have died in the wood from the blow. That may have happened—"

"But, dearest heart," I said, "Jens Larsen and the girl saw your father in the garden that night."

She shook her head slowly and answered, "The evil one blinded their eyes." She wept bitterly again.

"Tell me, beloved," she began again, after a while, "tell me frankly this much. If God sends us no further enlightenment in this unfortunate affair, what sentence must you give?"

She gazed anxiously at me, her lips trembling.

"If I did not believe," I began slowly, "that anyone else in my place would be more severe than I, then I would gladly give up my position at once and refuse to speak the verdict. But I dare not conceal from you that the mildest sentence that God, our king, and our laws demand is, a life for a life."

She sank to her knees, then sprang up again, fell back several steps as if afraid of me, and cried out: "Would you murder my father? Would you murder your betrothed bride? See here! See this!" She came nearer and held up her hand with my ring on it before my eyes. "Do you see this betrothal ring? What was it my father said when

you put this ring upon my finger? 'I have given my maid unto thy bosom!' But you, you thrust the steel deep into my bosom!"

Alas, every one of her words cut deep into my own heart.

"Dearest love," I cried, "do not speak so. You thrust burning irons into my heart. What would you have me do? Acquit him, when the laws of God and man condemn?"

She was silent, sobbing desperately.

"One thing I can do," I continued. "If it be wrong may God forgive me. If the trial goes on to an end his life is forfeited, there is no hope except in flight. If you can arrange an escape I will close my eyes. I will not see or hear anything. As soon as your father was imprisoned, I wrote to your brother in Copenhagen. He can arrive any moment now. Talk to him, make friends with the jailer. If you lack money, all I have is yours."

When I had finished her face flushed with joy, and she threw her arms about my neck. "God bless you for these words. Were my brother but here, he will know what to do. But where shall we go?" her tone changed suddenly and her arms dropped. "Even should we find a refuge in a foreign country I could never see you again!" Her tone was so sad that my heart was near to breaking.

"Beloved," I exclaimed, "I will find you wherever you may hide yourself! Should our money not be sufficient to support us I can work for us all. I have learned to use the ax and the hoe."

She rejoiced again and kissed me many times. We prayed to God to bless our undertaking and parted with glad hearts. I also hoped for the best. Doubts assail me, but God will find for us some light in this darkness.

Two more new witnesses. They bring nothing good, I fear, for Bruus announced them with an expression I did not like. He has a heart of stone, which can feel nothing but malice and bitterness. I give them a hearing to-morrow. I feel as if they had come to bear witness against me myself. May God strengthen my heart.

All is over. He has confessed.

The court was in session and the prisoner had been brought in to hear the testimony of the new witnesses. These men stated as follows:

On the night in question they were walking along the path that led between the woods and the rectory garden. A man with a large sack on his back came out of the woods and walked ahead of them toward the garden. They could not see his face, but in the bright moonlight his figure was clearly visible, and they could see that he wore a loose green garment, like a dressing gown, and a white nightcap. The man disappeared through an opening in the rectory garden fence.

Scarcely had the first witness ended his statement when the rector turned ghastly pale, and gasped, in a voice that could scarcely be heard, "I am ill." They gave him a chair.

Bruus turned to his neighbor and exclaimed audibly, "That helped the rector's memory."

The prisoner did not hear the words, but motioned to me and said, "Lead me back to my prison. I will talk to you there." They did as he demanded.

We set out at once for Grenaa. The rector was in the wagon with the jailer and the gendarme, and I rode beside them.

When the door of the cell was opened my beloved was making up her father's bed, and over a chair by the bedside hung the fatal green dressing gown. My dear betrothed greeted me with a cry of joy, as she believed that I was come to set her father free. She hung about the old man's neck, kissing away the tears that rolled unhindered down his cheeks. I had not the heart to undeceive her, and I sent her out into the town to buy some things for us.

"Sit down, dear friend," said the rector, when we were alone. He seated himself on the bed, staring at the ground with eyes that did not see. Finally he turned toward me where I sat trembling, as if it were my own sentence I was to hear, as in a manner it was. "I am a great sinner," he sighed, "God only knows how great. His punishment crushes me here that I may enter into His mercy hereafter."

He grew gradually calmer and began:

"Since my childhood I have been hot-tempered and violent. I could never endure contradiction, and was always ready to give a blow. But I have seldom let the sun go down upon my wrath, and I have never borne hatred toward any man. As a half-grown boy I killed our good, kind watchdog in one of my fits of rage for some trifling offense, and I have

never ceased to regret it. Later, as a student in Leipzig, I let myself be carried away sufficiently to wound seriously my adversary in one of our fencing bouts. A merciful fate alone saved me from becoming a murderer then. It is for these earlier sins that I am now being punished, but the punishment falls doubly hard, now that I am an old man, a priest, a servant of the Lord of Peace, and a father! Ah, that is the deepest wound!" He sprang up and wrung his hands in deep despair. I would have said something to comfort him, but I could find no words for such sorrow.

When he had controlled himself somewhat he sat down again and continued: "To you, once my friend and now my judge, I will confess this crime, which it seems beyond a doubt that I have committed, although I am not conscious of having done so." (I was startled at this, as I had expected a remorseful confession.) "Listen well to what I shall now tell you. That I struck the unfortunate man with the spade, that he fell down and then ran away, this is all that I know with full consciousness. . . . What followed then? Four witnesses have seen that I fetched the body and buried it in my garden—and now at last I am forced to believe that it must be true. These are my reasons for the belief. "Three or four times in my life I have walked in my sleep. The last time—it may have been nine or ten years ago—I was to have held a funeral service on the following day, over the body of a man who had died a sudden and terrible death. I could not find a suitable text, until suddenly there came to me the words of an old Greek philosopher, 'Call no man fortunate until his death.' It was in my mind that the same idea was expressed in different words in the Holy Scriptures. I sought and sought, but could not find it. At last I went to bed much fatigued, and slept soundly. Next morning, when I sat down at my desk, to my great astonishment I saw there a piece of paper, on which was written, 'Call no man happy until his end hath come' (Sirach xi. 34), and following it was a funeral sermon, short, but as good in construction as any I have ever written. And all this was in my own handwriting. It was quite out of the question that anyone could have entered the room during the night, as I had locked it myself, and it had not been opened until I entered next day. I knew what had happened, as I could remember one or two such occurrences in my life before.

"Therefore, dear friend, when the last witnesses gave their testimony to-day, I suddenly remembered my sleepwalking exploits, and I also remembered, what had slipped my mind before, that on the morning after the night the body was buried I had found my dressing gown in the hall outside of my bedroom. This had surprised me, as I always hung it over a chair near my bed. The unfortunate victim of my violence must have died in the woods from his wound, and in my dream consciousness I must have seen this and gone to fetch the body. It must be so. I know no other explanation. God have mercy on my sinful soul." He was silent again, covering his face with his hands and weeping bitterly.

I was struck dumb with astonishment and uncertainty. I had always suspected that the victim had died on the spot where he was buried, although I could not quite understand how the rector had managed to bury the body by day without being seen. But I thought that he might have covered it lightly with earth and twigs and finished his work at night. He was a man of sufficient strength of mind to have done this. When the latest witnesses were telling their story, I noted the possible contradiction, and hoped it might prove a loophole of escape. But, alas, it was all only too true, and the guilt of the rector proven beyond a doubt. It was not at all impossible for a man to do such things in his sleep. Just as it was quite possible that a man with a fractured skull could run some distance before he fell to die. The rector's story bore the stamp of truth, although the doubt *will* come that he desired thus to save a shred of honor for his name.

The prisoner walked up and down the room several times, then stopping before me he said gravely: "You have now heard my confession, here in my prison walls. It is your mouth that must speak my sentence. But what says your heart?"

I could scarcely utter the words, "My heart suffers beyond expression. I would willingly see it break if I could but save you from a shameful death." (I dared not mention to him my last hope of escape in flight.)

"That is impossible," he answered. "My life is forfeited. My death is just, and shall serve as a warning to others. But promise me that you will not desert my poor daughter. I had thought to lay her in your arms"—tears choked his voice—"but, alas, that fond hope is

vanished. You cannot marry the daughter of a sentenced murderer. But promise me that you will watch over her as her second father." In deep sorrow and in tears I held his hand in mine. "Have you any news from my son?" he began again. "I hope it will be possible to keep him in ignorance of this terrible affair until—until it is all over. I could not bear to see him now. And now, dear friend, let us part, not to meet again except in the hall of justice. Grant me of your friendship one last service, let it end soon. I long for death. Go now, my kind, sympathetic judge. Send for me to-morrow to speak my sentence, and send to-day for my brother in God, the pastor in Aalsö. He shall prepare me for death. God be with you."

He gave me his hand with his eyes averted. I staggered from the prison, hardly conscious of what I was doing. I would have ridden home without seeing his daughter had she not met me by the prison door. She must have seen the truth in my face, for she paled and caught at my arm. She gazed at me with her soul in her eyes, but could not speak. "Flee! Save your father in flight!" was all I could say.

I set spurs to my horse and rode home somehow.

To-morrow, then!

The sentence is spoken.

The accused was calmer than the judge. All those present, except his bitter enemy, were affected almost to tears. Some whispered that the punishment was too severe.

May God be a milder judge to me than I, poor sinner, am forced to be to my fellow men.

She has been here. She found me ill in bed. There is no escape possible. He will not flee. Everything was arranged and the jailer was ready to help. But he refuses, he longs for death. God be merciful to the poor girl. How will she survive the terrible day? I am ill in body and soul, I can neither aid nor comfort her. There is no word from the brother.

I feel that I am near death myself, as near perhaps as he is, whom I sent to his doom. Farewell, my own beloved bride. . . . What will she do? she is so strangely calm—the calm of wordless despair. Her brother has not yet come, and to-morrow—on the Ravenshill——!

Here the diary of Erik Sörensen stopped suddenly. What followed can be learned from the written and witnessed statements of the pastor of Aalsö, the neighboring parish to Veilbye.

II

It was during the seventeenth year of my term of office that the terrible event happened in the neighborhood which filled all who heard of it with shock and horror, and brought shame and disgrace upon our holy calling. The venerable Sören Quist, Rector of Veilbye, killed his servant in a fit of rage and buried the body in his garden.

He was found guilty at the official trial, through the testimony of many witnesses, as well as through his own confession. He was condemned to death, and the sentence was carried out in the presence of several thousand people on the little hill known as Ravenshill, here in the field of Aalsö.

The condemned man had asked that I might visit him in his prison. I must state that I have never given the holy sacrament to a better prepared or more truly repentant Christian. He was calm to the last, full of remorse for his great sin. On the field of death he spoke to the people in words of great wisdom and power, preaching to the text from the Lamentations of Jeremiah, chap. ii., verse 6: "He hath despised the priest in the indignation of his anger." He spoke of his violence and of its terrible results, and of his deep remorse. He exhorted his hearers to let his sin and his fate be an example to them, and a warning not to give way to anger. Then he commended his soul to the Lord, removed his upper garments, bound up his eyes with his own hand, then folded his hands in prayer. When I had spoken the words, "Brother, be of good cheer. This day shalt thou be with thy Saviour in Paradise," his head fell by the ax.

The one thing that made death bitter for him was the thought of his children. The son had been sent for from Copenhagen, but as we afterwards learned, he had been absent from the city, and therefore did not arrive until shortly after his father had paid the penalty for his crime.

I took the daughter into my home, where she was brought, half fainting, after they had led her father from the prison. She had been tending him lovingly all the days of his trial. What made even greater

sorrow for the poor girl, and for the district judge who spoke the sentence, was that these two young people had solemnly plighted their troth but a few short weeks before, in the rectory of Veilbye. The son arrived just as the body of the executed criminal was brought into my house. It had been permitted to us to bury the body with Christian rites, if we could do it in secret. The young man threw himself over the lifeless body. Then, clasping his sister in his arms, the two wept together in silence for some while. At midnight we held a quiet service over the remains of the Rector of Veilbye, and the body was buried near the door of Aalsö church. A simple stone, upon which I have carved a cross, still stands to remind the passer-by of the sin of a most unfortunate man.

The next morning his two children had disappeared. They have never been heard of since. God knows to what far-away corner of the world they have fled, to hide their shame and their sorrow. The district judge is very ill, and it is not believed that he will recover.

May God deal with us all after His wisdom and His mercy!

O Lord, inscrutable are thy ways!

In the thirty-eighth year of my service, and twenty-one years after my unfortunate brother in office, the Rector of Veilbye had been beheaded for the murder of his servant, it happened one day that a beggar came to my door. He was an elderly man, with gray hair, and walked with a crutch. He looked sad and needy. None of the servants were about, so I myself went into the kitchen and gave him a piece of bread. I asked him where he came from. He sighed and answered:

“From nowhere in particular.”

Then I asked him his name. He sighed still deeper, looked about him as if in fear, and said, “They once called me Niels Bruus.”

I was startled, and said, “God have mercy on us! That is a bad name. That is the name of a man who was killed many years back.”

Whereat the man sighed still deeper and replied: “It would have been better for me had I died then. It has gone ill with me since I left the country.”

At this the hair rose on my head, and I trembled in every limb. For it seemed to me that I could recognize him, and also it seemed to me

that I saw Morten Bruus before me in the flesh, and yet I had laid the earth over him three years before. I stepped back and made the sign of the cross, for verily I thought it was a ghost I saw before me.

But the man sat down in the chimney corner and continued to speak. "Reverend father, they tell me my brother Morten is dead. I have been to Ingvorstrup, but the new owner chased me away. Is my old master, the Rector of Veilbye, still alive?" Then it was that the scales fell from my eyes and I saw into the very truth of this whole terrible affair. But the shock stunned me so that I could not speak. The man bit into his bread greedily and went on. "Yes, that was all Brother Morten's fault. Did the old rector have much trouble about it?"

"Niels! Niels!" I cried from out the horror of my soul, "you have a monstrous black sin upon your conscience! For your sake that unfortunate man fell by the ax of the executioner!"

The bread and the crutch fell from his hand, and he himself was near to falling into the fire. "May God forgive you, Morten!" he groaned. "God knows I didn't mean anything like that. May my sin be forgiven me! But surely you only mean to frighten me! I come from far away, and have heard nothing. No one but you, reverend father, has recognized me. I have told my name to no one. When I asked them in Veilbye if the rector was still there, they said that he was."

"That is the new rector," I replied. "Not he whom you and your sinful brother have slain."

He wrung his hands and cried aloud, and then I knew that he had been but a tool in the hands of that devil, Morten. Therefore I set to work to comfort him, and took him into my study that he might calm himself sufficiently to tell me the detail of this Satan's work.

This was the story as he tells it: His brother Morten—truly a son of Belial—cherished a deadly hatred toward pastor Sören Quist since the day the latter had refused him the hand of his daughter. As soon as he heard that the pastor's coachman had left him, he persuaded Niels to take the place.

"Watch your chance well," he had said, "we'll play the black coat a trick some day, and you will be no loser by it."

Niels, who was rough and defiant by nature, soon came to a quarrel with his master, and when he had received his first chastisement, he

ran at once to Ingvorstrup to report it. "Let him strike you just once again," said Morten. "Then come to me, and we will pay him for it."

Then came the quarrel in the garden, and Niels ran off to Ingvorstrup. He met his brother in the woods and told him what had occurred.

"Did anyone see you on the way here?" asked Morten.

Niels thought not. "Good," said Morten; "now we'll give him a fright that he will not forget for a week or so."

He led Niels carefully to the house, and kept him hidden there the rest of the day. When all the household else had gone to sleep the two brothers crept out, and went to a field where several days before they had buried the body of a man of about Niels's age, size, and general appearance. (He had hanged himself, some said because of ill-treatment from Morten, in whose service he was. Others said it was because of unhappy love.) They dug up the corpse, although Niels did not like the work, and protested. But Morten was the stronger, and Niels had to do as he was ordered. They carried the body back with them into the house.

Then Niels was ordered to take off all his clothes, piece by piece, even to his shirt, and dress the dead man in them. Even his leaden earring, which he had worn for many years, was put in the ear of the corpse. After this was done, Morten took a spade and gave the head of the corpse two crashing blows, one over the nose, the other on the temple. The body was hidden in a sack and kept in the house during the next day. At night the day following, they carried it out to the wood near Veilbye.

Several times Niels had asked of his brother what all this preparation boded. But Morten answered only, "That is my affair. Do as I tell you, and don't ask questions."

When they neared the edge of the wood by Veilbye, Morten said, "Now fetch me one of the coats the pastor wears most. If you can, get the green dressing gown I have often seen him wear mornings."

"I don't dare," said Niels, "he keeps it in his bed chamber."

"Well, then, I'll dare it myself," said Morten. "And now, go your way, and never show yourself here again. Here is a bag with one hundred thalers. They will last you until you can take service some-

where in another country. Go where no one has ever seen you, and take another name. Never come back to Denmark again. Travel by night, and hide in the woods by day until you are well away from here. Here are provisions enough to last you for several days. And remember, never show yourself here again, as you value your life."

Niels obeyed, and has never seen his brother since that day. He had had much trouble, had been a soldier and lost his health in the war, and finally, after great trials and sufferings, had managed to get back to the land of his birth. This was the story as told me by the miserable man, and I could not doubt its truth.

It was now only too clear to me that my unfortunate brother in the Lord had fallen a victim to the hatred of his fiendish enemy, to the delusion of his judge and the witnesses, and to his own credulous imagination.

Oh, what is man that he shall dare to sit in judgment over his fellows! God alone is the Judge. He who gives life may alone give death!

I did not feel it my duty to give official information against this crushed and broken sinner, particularly as the district judge is still alive, and it would have been cruelty to let him know of his terrible error.

Instead, I gave what comfort my office permitted to the poor man, and recommended him not to reveal his name or tell his story to anyone in the district. On these conditions I would give him a home until I could arrange for a permanent refuge for him in my brother's house, a good distance from these parts.

The day following was a Sunday. When I returned from evening service at my branch parish, the beggar had disappeared. But by the evening of the next day the story was known throughout the neighborhood.

Goaded by the pangs of conscience, Niels had gone to Rosmer and made himself known to the judge as the true Niels Bruus. Upon the hearing of the terrible truth, the judge was taken with a stroke and died before the week was out. But on Tuesday morning they found Niels Bruus dead on the grave of the late rector Sören Quist of Veilbye, by the door of Aalsö church.

HEINRICH VON KLEIST

**MICHAEL KOHLHAAS: A TALE FROM
AN OLD CHRONICLE**

The drama and prose of Heinrich von Kleist (1777–1811), whose short life ended in suicide, is considered in Germany as part of classic literature. Of international celebrity, however, is the novelette reproduced here. Inspired by an actual 16th century case, Kleist creates an original piece of art in telling the story of a man whose outraged sense of justice changes him from a law-abiding citizen into an outlaw. *A Tale From An Old Chronicle* is enthusiastically referred to in Rudolph von Ihering's famous study of jurisprudence, *The Fight For Law*, which espouses the controversial theory that the fight for justice is an absolute ideal that should not be abandoned because the sacrifice to be made is out of proportion to the practical result to be achieved.

TOWARD the middle of the sixteenth century there lived on the banks of the river Havel a horse-dealer by the name of Michael Kohlhaas, the son of a school-master, one of the most upright and, at the same time, one of the most terrible men of his day. Up to his thirtieth year this extraordinary man would have been considered the model of a good citizen. In a village which still bears his name, he owned a farmstead on which he quietly supported himself by plying his trade. The children with whom his wife presented him were brought up in the fear of God, and taught to be industrious and honest; nor was there one among his neighbors who had not enjoyed the benefit of his kindness or his justice. In short, the world would have had every reason to bless his memory if he had not carried to excess one virtue—his sense of justice, which made of him a robber and a murderer.

He rode abroad once with a string of young horses, all well fed and glossy-coated, and was turning over in his mind how he would employ the profit that he hoped to make from them at the fairs; part of it, as is the way with good managers, he would use to gain future profits, but he would also spend part of it in the enjoyment of the present. While thus engaged he reached the Elbe, and near a stately castle, situated on Saxon territory, he came upon a toll-bar which he had never found on this road before. Just in the midst of a heavy shower he halted with his horses and called to the toll-gate keeper, who soon after showed his surly face at the window. The horse-dealer told him to open the gate. "What new arrangement is this?" he asked, when the toll-gatherer, after some time, finally came out of the house.

"Seignorial privilege" answer the latter, unlocking the gate, "conferred by the sovereign upon Squire Wenzel Tronka."

"Is that so?" queried Kohlhaas; "the Squire's name is now Wenzel?" and gazed at the castle, the glittering battlements of which looked out over the field. "Is the old gentleman dead?"

"Died of apoplexy," answered the gate keeper, as he raised the toll-bar.

"Hum! Too bad!" rejoined Kohlhaas. "An estimable old gentleman he was, who liked to watch people come and go, and helped along trade and traffic wherever he could. He once had a causeway built because a mare of mine had broken her leg out there on the road leading to the village. Well, how much is it?" he asked, and with some trouble got out the few groschen demanded by the gate keeper from under his cloak, which was fluttering in the wind. "Yes, old man," he added, picking up the leading reins as the latter muttered "Quick, quick!" and cursed the weather; "if this tree had remained standing in the forest it would have been better for me and for you." With this he gave him the money, and started to ride on.

He had hardly passed under the toll-bar, however, when a new voice cried out from the tower behind him, "Stop there, horse-dealer!" and he saw the castellan close a window and come hurrying down to him. "Well, I wonder what he wants!" Kohlhaas asked himself, and halted with his horses. Buttoning another waistcoat over his ample body, the castellan came up to him and, standing with his back to the storm, demanded his passport.

"My passport?" queried Kohlhaas. Somewhat disconcerted, he replied that he had none, so far as he knew, but that, if some one would just describe to him what in the name of goodness this was, perhaps he might accidentally happen to have one about him. The castellan, eying him askance, retorted that without an official permit no horse-dealer was allowed to cross the border with horses. The horse-dealer assured him that seventeen times in his life he had crossed the border without such a permit; that he was well acquainted with all the official regulations which applied to his trade; that this would probably prove to be only a mistake; the castellan would please consider the matter and, since he had a long day's journey before him, not detain him here unnecessarily any longer. But the castellan answered that he was not going to slip through the eighteenth time, that the ordinance concerning this matter had been only recently issued, and that he must either

procure the passport here or go back to the place from which he had come. After a moment's reflection, the horse-dealer, who was beginning to feel bitter, got down from his horse, turned it over to a groom, and said that he would speak to Squire Tronka himself on the subject. He really did walk toward the castle; the castellan followed him, muttering something about niggardly money-grubbers, and what a good thing it was to bleed them; and, measuring each other with their glances, the two entered the castle-hall.

It happened that the Squire was sitting over his wine with some merry friends, and a joke had caused them all to break into uproarious laughter just as Kohlhaas approached him to make his complaint. The Squire asked what he wanted; the young nobles, at sight of the stranger, became silent; but no sooner had the latter broached his request concerning the horses than the whole group cried out, "Horses! Where are they?" and hurried over to the window to look at them. When they saw the glossy string, they all followed the suggestion of the Squire and flew down into the courtyard. The rain had ceased; the castellan, the steward, and the servant gathered round them and all scanned the horses. One praised a bright bay with a white star on its forehead, another preferred a chestnut, a third patted the dappled horse with tawny spots; and all were of the opinion that the horses were like deer, and that no finer were raised in the country. Kohlhaas answered cheerily that the horses were no better than the knights who were to ride them, and invited the men to buy. The Squire, who eagerly desired the big bay stallion, went so far as to ask its price, and the steward urged him to buy a pair of black horses, which he thought he could use on the farm, as they were short of horses. But when the horse-dealer had named his price the young knights thought it too high, and the Squire said that Kohlhaas would have to ride in search of the Round Table and King Arthur if he put such a high value on his horses. Kohlhaas noticed that the castellan and the steward were whispering together and casting significant glances at the black horses the while, and, moved by a vague presentiment, made every effort to sell them the horses. He said to the Squire, "Sir, I bought those black horses six months ago for twenty-five gold gulden; give me thirty and you shall have them." Two of the young noblemen who were standing beside the Squire declared quite audibly that the horses were probably worth that much; but the Squire said that while he might be willing to pay out

money for the bay stallion he really should hardly care to do so for the pair of blacks, and prepared to go in. Whereupon Kohlhaas, saying that the next time he came that way with his horses they might perhaps strike a bargain, took leave of the Squire and, seizing the reins of his horse, started to ride away.

At this moment the castellan stepped forth from the crowd and reminded him that he would not be allowed to leave without a passport. Kohlhaas turned around and inquired of the Squire whether this statement, which meant the ruin of his whole trade, were indeed correct. The Squire, as he went off, answered with an embarrassed air, "Yes, Kohlhaas, you must get a passport. Speak to the castellan about it, and go your way." Kohlhaas assured him that he had not the least intention of evading the ordinances which might be in force concerning the exportation of horses. He promised that when he went through Dresden he would take out the passport at the chancery, and begged to be allowed to go on, this time, as he had known nothing whatever about this requirement. "Well!" said the Squire, as the storm at that moment began to rage again and the wind blustered about his scrawny legs; "let the wretch go. Come!" he added to the young knights, and, turning around, started toward the door. The castellan, facing about toward the Squire, said that Kohlhaas must at least leave behind some pledge as security that he would obtain the passport. The Squire stopped again under the castle gate. Kohlhaas asked how much security for the black horses in money or in articles of value he would be expected to leave. The steward muttered in his beard that he might just as well leave the blacks themselves.

"To be sure," said the castellan; "that is the best plan; as soon as he has taken out the passport he can come and get them again at any time." Kohlhaas, amazed at such a shameless demand, told the Squire, who was holding the skirts of his doublet about him for warmth, that what he wanted to do was to sell the blacks; but as a gust of wind just then blew a torrent of rain and hail through the gate, the Squire, in order to put an end to the matter, called out, "If he won't give up the horses, throw him back again over the toll-bar;" and with that he went off.

The horse-dealer, who saw clearly that on this occasion he would have to yield to superior force, made up his mind to comply with the

demand, since there really was no other way out of it. He unhitched the black horses and led them into a stable which the castellan pointed out to him. He left a groom in charge of them, provided him with money, warned him to take good care of the horses until he came back, and with the rest of the string continued his journey to Leipzig, where he purposed to go to the fair. As he rode along he wondered, in half uncertainty, whether after all such a law might not have been passed in Saxony for the protection of the newly started industry of horse-raising.

On his arrival in Dresden, where, in one of the suburbs of the city, he owned a house and stable—this being the headquarters from which he usually conducted his business at the smaller fairs around the country—he went immediately to the chancery. And here he learned from the councilors, some of whom he knew, that indeed, as his first instinct had already told him, the story of the passport was only made up. At Kohlhaas's request, the annoyed councilors gave him a written certificate of its baselessness, and the horse-dealer smiled at the lean Squire's joke, although he did not quite see what purpose he could have had in view. A few weeks later, having sold to his satisfaction the string of horses he had with him, Kohlhaas returned to Tronka Castle harboring no other resentment save that caused by the general misery of the world.

The castellan, to whom he showed the certificate, made no comment upon it, and to the horse-dealer's question as to whether he could now have his horses back, replied that he need only go down to the stable and get them. But even while crossing the courtyard, Kohlhaas learned with dismay that for alleged insolence his groom had been cudgeled and dismissed in disgrace a few days after being left behind at Tronka Castle. Of the boy who informed him of this he inquired what in the world the groom had done, and who had taken care of the horses in the mean time; to this the boy answered that he did not know, and then opened to the horse-dealer, whose heart was already full of misgivings, the door of the stable in which the horses stood. How great, though, was his astonishment when, instead of his two glossy, well-fed blacks, he spied a pair of lean, worn-out jades, with bones on which one could have hung things as if on pegs, and with mane and hair matted together from lack of care and attention—in short, the very picture of utter misery in the animal kingdom! Kohlhaas, at the sight of whom

the horses neighed and moved feebly, was extremely indignant, and asked what had happened to his horses. The boy, who was standing beside him, answered that they had not suffered any harm, and that they had had proper feed too, but, as it had been harvest time, they had been used a bit in the fields because there weren't draught animals enough. Kohlhaas cursed over the shameful, preconcerted outrage; but realizing that he was powerless he suppressed his rage, and, as no other course lay open to him, was preparing to leave this den of thieves again with his horses when the castellan, attracted by the altercation, appeared and asked what was the matter.

"What's the matter?" echoed Kohlhaas. "Who gave Squire Tronka and his people permission to use for work in the fields the black horses that I left behind with him?" He added, "Do you call that humane?" and trying to rouse the exhausted nags with a switch, he showed him that they did not move. The castellan, after he had watched him for a while with an expression of defiance, broke out, "Look at the ruffian! Ought not the churl to thank God that the jades are still alive?" He asked who would have been expected to take care of them when the groom had run away, and whether it were not just that the horses should have worked in the fields for their feed. He concluded by saying that Kohlhaas had better not make a rumpus or he would call the dogs and with them would manage to restore order in the courtyard.

The horse-dealer's heart thumped against his doublet. He felt a strong desire to throw the good-for-nothing, pot-bellied scoundrel into the mud and set his foot on his copper-colored face. But his sense of justice, which was as delicate as a gold-balance, still wavered; he was not yet quite sure before the bar of his own conscience whether his adversary were really guilty of a crime. And so, swallowing the abusive words and going over to the horses, he silently pondered the circumstances while arranging their manes, and asked in a subdued voice for what fault the groom had been turned out of the castle. The castellan replied, "Because the rascal was insolent in the courtyard; because he opposed a necessary change of stables and demanded that the horses of two young noblemen, who came to the castle, should, for the sake of his nags, be left out on the open high-road over night."

Kohlhaas would have given the value of the horses if he could have had the groom at hand to compare his statement with that of this

thick-lipped castellan. He was still standing, straightening the tangled manes of the black horses, and wondering what could be done in the situation in which he found himself, when suddenly the scene changed, and Squire Wenzel Tronka, returning from hare-hunting, dashed into the courtyard, followed by a swarm of knights, grooms, and dogs. The castellan, when asked what had happened, immediately began to speak, and while, on the one hand, the dogs set up a murderous howl at the sight of the stranger, and, on the other, the knights sought to quiet them, he gave the Squire a maliciously garbled account of the turmoil the horse-dealer was making because his black horses had been used a little. He said, with a scornful laugh, that the horse-dealer refused to recognize the horses as his own.

Kohlhaas cried, "Your worship, those are not my horses. Those are not the horses which were worth thirty gold gulden! I want my well-fed, sound horses back again!"

The Squire, whose face grew momentarily pale, got down from his horse and said, "If the d——d scoundrel doesn't want to take the horses back, let him leave them here. Come, Gunther!" he called; "Hans, come!" He brushed the dust off his breeches with his hand and, just as he reached the door with the young knights, called "Bring wine!" and strode into the house.

Kohlhaas said that he would rather call the knacker and have his horses thrown into the carrion pit than lead them back, in that condition, to his stable at Kohlhaasenbrück. Without bothering himself further about the nags, he left them standing where they were, and, declaring that he should know how to get his rights, mounted his bay horse and rode away.

He was already galloping at full speed on the road to Dresden when, at the thought of the groom and of the complaint which had been made against him at the castle, he slowed down to a walk, and, before he had gone a thousand paces farther, turned his horse around again and took the road toward Kohlhaasenbrück, in order, as seemed to him wise and just, to hear first what the groom had to say. For in spite of the injuries he had suffered, a correct instinct, already familiar with the imperfect organization of the world, inclined him to put up with the loss of the horses and to regard it as a just consequence of the groom's misconduct in case there really could be imputed to the latter

any such fault as the castellan charged. On the other hand, an equally admirable feeling took deeper and deeper root the farther he rode, hearing at every stop of the outrages perpetrated daily upon travelers at Tronka Castle; this instinct told him that if, as seemed probable, the whole incident proved to be a preconcerted plot, it was his duty to the world to make every effort to obtain for himself satisfaction for the injury suffered, and for his fellow-countrymen a guarantee against similar injuries in the future.

On his arrival at Kohlhaasenbrück, as soon as he had embraced his faithful wife Lisbeth and had kissed his children, who were shouting joyfully about his knees, he asked at once after Herse, the head groom, and whether anything had been heard from him. Lisbeth answered, "Oh yes, dearest Michael—that Herse! Just think! The poor fellow arrived here about a fortnight ago, most pitifully bruised and beaten; really, he was so battered that he couldn't even breathe freely. We put him to bed, where he kept coughing up blood, and after repeated questions we heard a story that no one could understand. He told us that you had left him at Tronka Castle in charge of some horses which they would not allow to pass through there, that by the most shameful maltreatment he had been forced to leave the castle, and that it had been impossible for him to bring the horses with him."

"Really!" exclaimed Kohlhaas, taking off his cloak. "I suppose he has recovered before this?"

"Pretty well, except that he still coughs blood," she answered. "I wanted to send another groom at once to Tronka Castle so as to have the horses taken care of until you got back there; for as Herse has always shown himself truthful and, indeed, more faithful to us than any other has ever been, I felt I had no right to doubt his statement, especially when confirmed by so many bruises, or to think that perhaps he had lost the horses in some other way. He implored me, however, not to require any one to go to that robber's nest, but to give the animals up if I didn't wish to sacrifice a man's life for them."

"And is he still abed?" asked Kohlhaas, taking off his neckcloth.

"He's been going about in the yard again for several days now," she answered. "In short, you will see for yourself," she continued, "that it's all quite true and that this incident is merely another one of those

outrages that have been committed of late against strangers at Tronka Castle."

"I must first investigate that," answered Kohlhaas. "Call him in here, Lisbeth, if he is up and about." With these words he sat down in the arm-chair and his wife, delighted at his calmness, went and fetched the groom.

"What did you do at Tronka Castle," asked Kohlhaas, as Lisbeth entered the room with him. "I am not very well pleased with you."

On the groom's pale face spots of red appeared at these words. He was silent for a while—then he answered, "You are right there, Sir; for a sulphur cord, which by the will of Providence I was carrying in my pocket so as to set fire to the robber's nest from which I had been driven, I threw into the Elbe when I heard a child crying inside the castle, and I thought to myself, 'Let God's lightning burn it down; I will not!'"

Kohlhaas was disconcerted. "But for what cause were you driven from the castle?" he asked.

To this Herse answered, "Something very wrong, Sir," and wiped the perspiration from his forehead. "What is done, however, can't be undone. I wouldn't let the horses be worked to death in the fields, and so I said that they were still young and had never been in harness."

Kohlhaas, trying to hide his perplexity, answered that he had not told the exact truth, as the horses had been in harness for a little while in the early part of the previous spring. "As you were a sort of guest at the castle," he continued, "you really might have been obliging once or twice whenever they happened not to have horses enough to get the crops in as fast as they wished."

"I did so, Sir," said Herse. "I thought, as long as they looked so sulky about it, that it wouldn't hurt the blacks for once, and so on the third afternoon I hitched them in front of the others and brought in three wagon-loads of grain from the fields."

Kohlhaas, whose heart was thumping, looked down at the ground and said, "They told me nothing about that, Herse!"

Herse assured him that it was so. "I wasn't disobliging save in my refusal to harness up the horses again when they had hardly eaten

their fill at midday; then too, when the castellan and the steward offered to give me free fodder if I would do it, telling me to pocket the money that you had left with me to pay for feed, I answered that I would do something they didn't bargain for, turned around, and left them!"

"But surely it was not for that disobliging act that you were driven away from the castle," said Kohlhaas.

"Mercy, no!" cried the groom. "It was because of a very wicked crime! For the horses of two knights who came to the castle were put into the stable for the night and mine were tied to the stable door. And when I took the blacks from the castellan, who was putting the knights' horses into my stable, and asked where my animals were to go, he showed me a pigsty built of laths and boards against the castle wall."

"You mean," interrupted Kohlhaas, "that it was such a poor shelter for horses that it was more like a pigsty than a stable?"

"It was a pigsty, Sir," answered Herse; "really and truly a pigsty, with the pigs running in and out; I couldn't stand upright in it."

"Perhaps there was no other shelter to be found for the blacks," Kohlhaas rejoined; "and of course, in a way, the knights' horses had the right to better quarters."

"There wasn't much room," answered the groom, dropping his voice. "Counting these two, there were, in all, seven knights lodging at the castle. If it had been you, you would have had the horses moved closer together. I said I would try to rent a stable in the village, but the castellan objected that he had to keep the horses under his own eyes and told me not to dare to take them away from the courtyard."

"Hum!" said Kohlhaas. "What did you say to that?"

"As the steward said the two guests were only going to spend the night and continue on their way the next morning, I led the two horses into the pigsty. But the following day passed and they did not go, and on the third it was said the gentlemen were going to stay some weeks longer at the castle."

"After all, it was not so bad, Herse, in the pigsty, as it seemed to you when you first stuck your nose into it," said Kohlhaas.

"That's true," answered the groom. "After I had swept the place out a little, it wasn't so bad! I gave a groschen to the maid to have her put the pigs somewhere else; and by taking the boards from the roof-bars at dawn and laying them on again at night, I managed to arrange it so that the horses could stand upright in the daytime. So there they stood like geese in a coop, and stuck their heads through the roof, looking around for Kohlhaasenbrück or some other place where they would be better off."

"Well then," said Kohnhaas, "why in the world did they drive you away?"

"Sir, I'll tell you," answer the groom, "it was because they wanted to get rid of me, since, as long as I was there, they could not work the horses to death. Everywhere, in the yard, in the servants' hall, they made faces at me, and because I thought to myself, 'You can draw your jaws down until you dislocate them, for all I care,' they picked a quarrel and threw me out of the courtyard."

"But what provoked them?" cried Kohlhaas; "they must have had some sort of provocation!"

"Oh, to be sure," answered Herse; "the best imaginable! On the evening of the second day spent in the pigsty, I took the horses, which had become dirty in spite of my efforts, and started to ride them down to the horse-pond. When I reached the castle-gate and was just about to turn, I heard the castellan and the steward, with servants, dogs and cudgels, rushing out of the servants' hall after me and calling, 'Stop thief! Stop gallows-bird!' as if they were possessed. The gate-keeper stepped in front of me, and when I asked him and the raving crowd that was running at me, 'What in the world is the matter?'—'What's the matter!' answered the castellan, seizing my two black horses by the bridle. 'Where are you going with the horses?' he asked, and seized me by the chest. 'Where am I going?' I repeated. 'Thunder and lightning! I am riding down to the horse-pond. Do you think that I—?'—'To the horse-pond!' cried the castellan. 'I'll teach you, you swindler, to swim along the highroad back to Kohlhaasenbrück!' And with a spiteful, vicious jerk he and the steward, who had caught me by the leg, hurled me down from the horse so that I measured my full length in the mud. 'Murder! Help!' I cried; 'breast straps and blankets and a bundle of linen belonging to me are in the stable.' But

while the steward led the horses away, the castellan and servants fell upon me with their feet and whips and cudgels, so that I sank down behind the castle-gate half dead. And when I cried, 'The thieves! Where are they taking my horses?' and got to my feet—'Out of the courtyard with you!' screamed the castellan, 'Sick him, Caesar! Sick him, Hunter!' and, 'Sick him, Spitz!' he called, and a pack of more than twelve dogs rushed at me. Then I tore something from the fence, possibly a picket, and stretched out three dogs dead beside me! But when I had to give way because I was suffering from fearful wounds and bites, I heard a shrill whistle; the dogs scurried into the yard, the gates were swung shut and the bolt shot into position, and I sank down on the highroad unconscious."

Kohlhaas, white in the face, said with forced jocularly, "Didn't you really want to escape, Herse?" And as the latter, with a deep blush, looked down at the ground—"Confess to me!" said he; "You didn't like it in the pigsty; you thought to yourself you would rather be in the stable at Kohlhaasenbrück, after all!"

"Od's thunder!" cried Herse; "breast strap and blankets I tell you, and a bundle of linen I left behind in the pigsty. Wouldn't I have taken along three gold gulden that I had wrapped in a red silk neckcloth and hidden away behind the manger? Blazes, hell, and the devil! When you talk like that, I'd like to relight at once the sulphur cord I threw away!"

"There, there!" said the horse-dealer, "I really meant no harm. What you have said—see here I believe it word for word, and when the matter comes up, I am ready to take the Holy Communion myself as to its truth. I am sorry that you have not fared better in my service. Go, Herse, go back to bed. Have them bring you a bottle of wine and make yourself comfortable; you shall have justice done you!" With that he stood up, made out a list of the things which the head groom had left behind in the pigsty, jotted down the value of each, asked him how high he estimated the cost of his medical treatment, and sent him from the room after shaking hands with him once more.

Thereupon he recounted to Lisbeth, his wife, the whole course of the affair, explained the true relation of events, and declared to her that he was determined to demand public justice for himself. He had the satisfaction of finding that she heartily approved his purpose, for,

she said, many other travelers, perhaps less patient than he, would pass by the castle, and it was doing God's work to put a stop to disorders such as these. She added that she would manage to get together the money to pay the expenses of the lawsuit. Kohlhaas called her his brave wife, spent that day and the next very happily with her and the children, and, as soon as his business would at all permit it, set out for Dresden in order to lay his suit before the court.

Here, with the help of a lawyer whom he knew, he drew up a complaint, in which, after giving a detailed account of the outrage which Squire Wenzel Tronka had committed against him and against his groom Herse, he petitioned for the lawful punishment of the former, restoration of the horses to their original condition, and compensation for the damages which he and his groom had sustained. His case was indeed perfectly clear. The fact that the horses had been detained contrary to law threw a decisive light on everything else; and even had one been willing to assume that they had sickened by sheer accident, the demand of the horse-dealer to have them returned to him in sound condition would still have been just. While looking about him in the capital, Kohlhaas had no lack of friends, either, who promised to give his case lively support. His extensive trade in horses had secured him the acquaintance of the most important men of the country, and the honesty with which he conducted his business had won him their good will.

Kohlhaas dined cheerfully several times with his lawyer, who was himself a man of consequence, left a sum of money with him to defray the costs of the lawsuit and, fully reassured by the latter as to the outcome of the case, returned, after the lapse of some weeks, to his wife Lisbeth in Kohlhaasenbrück.

Nevertheless months passed, and the year was nearing its close before he received even a statement from Saxony concerning the suit which he had instituted there, let alone the final decree itself. After he had applied several times more to the court, he sent a confidential letter to his lawyer asking what was the cause of such undue delay. He was told in reply that the suit had been dismissed in the Dresden courts at the instance of an influential person. To the astonished reply of the horse-dealer asking what was the reason of this, the lawyer informed him that Squire Wenzel Tronka was related to two young

noblemen, Hinz and Kunz Tronka, one of whom was Cup-bearer to the person of the sovereign, and the other actually Chamberlain. He also advised Kohlhaas not to make any further appeal to the court of law, but to try to regain possession of his horses which were still at Tronka Castle, giving him to understand that the Squire, who was then stopping in the capital, seemed to have ordered his people to deliver them to him. He closed with a request to excuse him from executing any further commissions in the matter, in case Kohlhaas refused to be content with this.

At this time Kohlhaas happened to be in Brandenburg, where the City Governor, Heinrich von Geusau, to whose jurisdiction Kohlhaas-enbrück belonged, was busy establishing several charitable institutions for the sick and the poor out of a considerable fund which had fallen to the city. He was especially interested in fitting up, for the benefit of invalids, a mineral spring which rose in one of the villages in the vicinity, and which was thought to have greater powers than it subsequently proved to possess. As Kohlhaas had had numerous dealings with him at the time of his sojourn at Court and was therefore known to him, he allowed Herse, the head groom, who, ever since that unlucky day in Tronka Castle, had suffered pains in the chest when he breathed, to try the effect of the little healing spring, which had been inclosed and roofed over.

It so happened that the City Governor was just giving some directions, as he stood beside the depression in which Kohlhaas had placed Herse, when a messenger, whom the horse-dealer's wife had sent on after him, put in his hands the disheartening letter from his lawyer in Dresden. The City Governor, who, while speaking with the doctor, noticed that Kohlhaas let a tear fall on the letter he had just read, approached him and, in a friendly, cordial way, asked him what misfortune had befallen him. The horse-dealer handed him the letter without answering. The worthy Governor, knowing the abominable injustice done him at Tronka Castle as a result of which Herse was lying there before him sick, perhaps never to recover, clapped Kohlhaas on the shoulder and told him not to lose courage, for he would help him secure justice. In the evening, when the horse-dealer, acting upon his orders, came to the palace to see him, Kohlhaas was told that what he should do was to draw up a petition to the Elector of Brandenburg, with a short account of the incident, to inclose the lawyer's letter, and, on account of the

violence which had been committed against him on Saxon territory, solicit the protection of the sovereign. He promised him to see that the petition would be delivered into the hands of the Elector together with another packet that was all ready to be dispatched; if circumstances permitted, the latter would, without fail, approach the Elector of Saxony on his behalf. Such a step would be quite sufficient to secure Kohlhaas justice at the hand of the tribunal at Dresden, in spite of the arts of the Squire and his partisans. Kohlhaas, much delighted, thanked the Governor very heartily for this new proof of his good will, and said he was only sorry that he had not instituted proceedings at once in Berlin without taking any steps in the matter at Dresden. After he had made out the complaint in due form at the office of the municipal court and delivered it to the Governor, he returned to Kohlhaasenbrück, more encouraged than ever about the outcome of his affair.

After only a few weeks, however, he was grieved to learn from a magistrate who had gone to Potsdam on business for the City Governor, that the Elector had handed the petition over to his Chancellor, Count Kallheim, and that the latter, instead of taking the course most likely to produce results and petitioning the Court at Dresden directly for investigation and punishment of the outrage, had, as a preliminary, applied to the Squire Tronka for further information.

The magistrate, who had stopped in his carriage outside of Kohlhaas' house and seemed to have been instructed to deliver this message to the horse-dealer, could give the latter no satisfactory answer to his perplexed question as to why this step had been taken. He was apparently in a hurry to continue his journey, and merely added that the Governor sent Kohlhaas word to be patient. Not until the very end of the short interview did the horse-dealer divine from some casual words he left fall, that Count Kallheim was related by marriage to the house of Tronka.

Kohlhaas, who no longer took any pleasure either in his horse-breeding, or his house or his farm, scarcely even in his wife and children, waited all the next month, full of gloomy forebodings as to the future. And, just as he had expected at the expiration of this time, Herse, somewhat benefited by the baths, came back from Brandenburg bringing a rather lengthy decree and a letter from the City Governor. The latter ran

as follows: He was sorry that he could do nothing in Kohlhaas' behalf; he was sending him a decision from the Chancery of State and he advised him to fetch away the horses that he had left behind at the Tronka Castle, and then to let the matter drop.

The decree read as follows: "According to the report of the tribunal at Dresden, he was a good-for-nothing, quarrelsome person; the Squire with whom he had left the horses was not keeping them from him in any way; let him send to the castle and take them away, or at least inform the Squire where to send them to him; in any case he should not trouble the Chancery of the State with such petty quarrels and mischief-making."

Kohlhaas, who was not concerned about the horses themselves—he would have felt just as much pain if it had been a question of a couple of dogs—Kohlhaas foamed with rage when he received this letter. As often as he heard a noise in the courtyard he looked toward the gateway with the most revolting feelings of anticipation that had ever agitated his breast, to see whether the servants of the Squire had come to restore to him, perhaps even with an apology, the starved and worn-out horses. This was the only situation which he felt that his soul, well disciplined though it had been by the world, was not prepared to meet.

A short time after, however, he heard from an acquaintance who had traveled that road, that at Tronka Castle his horses were still being used for work in the fields exactly like the Squire's other horses. Through the midst of the pain caused by beholding the world in a state of such monstrous disorder, shot the inward satisfaction of knowing that from henceforth he would be at peace with himself.

He invited a bailiff, who was his neighbor, to come to see him. The latter had long cherished the idea of enlarging his estate by purchasing the property which adjoined it. When he had seated himself Kohlhaas asked him how much he would give for his possessions on Brandenburg and Saxon territory, for house and farm, in a lump, immovable or not.

Lisbeth, his wife, grew pale when she heard his words. She turned around and picked up her youngest child who was playing on the floor behind her. While the child pulled at her kerchief, she darted glances of mortal terror past the little one's red cheeks, at the horse-dealer, and at a paper which he held in his hand.

The bailiff stared at his neighbor in astonishment and asked him what had suddenly given him such strange ideas; to which the horse-dealer, with as much gaiety as he could muster, replied that the idea of selling his farm on the banks of the Havel was not an entirely new one, but that they had often before discussed the subject together. As for his house in the outskirts of Dresden—in comparison with the farm it was only a tag end and need not be taken into consideration. In short, if the bailiff would do as he wished and take over both pieces of property, he was ready to close the contract with him. He added with rather forced pleasantry that Kohlhaasenbrück was not the world; that there might be objects in life compared with which that of taking care of his home and family as a father is supposed to would be a secondary and unworthy one. In a word, he must tell him that his soul was intent upon accomplishing great things, of which, perhaps, he would hear shortly. The bailiff, reassured by these words, said jokingly to Kohlhaas' wife, who was kissing her child repeatedly, "Surely he will not insist upon being paid immediately!" Then he laid his hat and cane, which he had been holding between his knees, on the table, and taking the paper, which the horse-dealer was holding in his hand, began to read. Kohlhaas, moving closer to him, explained that it was a contingent contract to purchase, drawn up by himself, his right to cancel the contract expiring in four weeks. He showed the bailiff that nothing was wanting but the signatures, the insertion of the purchase-price itself, and the amount of the forfeit that he, Kohlhaas, would agree to pay in case he should withdraw from the contract within the four weeks' time. Again Kohlhaas gaily urged his friend to make an offer, assuring him that he would be reasonable and would make the conditions easy for him. His wife was walking up and down the room; she breathed so hard that the kerchief, at which the boy had been pulling, threatened to fall clear off her shoulder. The bailiff said that he really had no way of judging the value of the property in Dresden; whereupon Kohlhaas, shoving toward him some letters which had been exchanged at the time of its purchase, answered that he estimated it at one hundred gold gulden, although the letters would show that it had cost him almost half as much again. The bailiff who, on reading the deed of sale, found that, strangely enough, he too was guaranteed the privilege of withdrawing from the bargain, had already half made up his mind; but he said that, of course, he could make no use of the stud-horses which

were in the stables. When Kohlhaas replied that he wasn't at all inclined to part with the horses either, and that he also desired to keep for himself some weapons which were hanging in the armory, the bailiff still continued to hesitate for some time. At last he repeated an offer that, once before, when they were out walking together, he had made him, half in jest and half in earnest—a trifling offer indeed, in comparison with the value of the property. Kohlhaas pushed the pen and ink over for him to sign, and when the bailiff, who could not believe his senses, again inquired if he were really in earnest, and the horse-dealer asked, a little sensitively, whether he thought that he was only jesting with him, then took up the pen, though with a very serious face, and wrote. However, he crossed out the clause concerning the sum to be forfeited in case the seller should repent of the transaction, bound himself to a loan of one hundred gold gulden on a mortgage on the Dresden property, which he absolutely refused to buy outright, and allowed Kohlhaas full liberty to withdraw from the transaction at any time within two months.

The horse-dealer, touched by this conduct, shook his hand with great cordiality, and after they had furthermore agreed on the principal conditions, to the effect that a fourth part of the purchase-price should without fail be paid immediately in cash, and the balance paid into the Hamburg bank in three months' time, Kohlhaas called for wine in order to celebrate such a happy conclusion of the bargain. He told the maid-servant who entered with the bottles, to order Sternbald, the groom, to saddle the chestnut horse for him, as he had to ride to the capital, where he had some business to attend to. He gave them to understand that, in a short time, when he returned, he would talk more frankly concerning what he must for the present continue to keep to himself. As he poured out the wine into the glasses, he asked about the Poles and the Turks who were just then at war, and involved the bailiff in many political conjectures on the subject; then, after finally drinking once more to the success of their business, he allowed the latter to depart.

When the bailiff had left the room, Lisbeth fell down on her knees before her husband. "If you have any affection for me," she cried, "and for the children whom I have borne you; if you have not already, for what reason I know not, cast us out from your heart, then tell me what these horrible preparations mean!"

Kohlhaas answered, "Dearest wife, they mean nothing which need cause you any alarm, as matters stand at present. I have received a decree in which I am told that my complaint against the Squire Wenzel Tronka is a piece of impertinent mischief-making. As there must exist some misunderstanding in this matter, I have made up my mind to present my complaint once more, this time in person, to the sovereign himself."

"But why will you sell your house?" she cried, rising with a look of despair.

The horse-dealer, clasping her tenderly to his breast, answered, "Because, dear Lisbeth, I do not care to remain in a country where they will not protect me in my rights. If I am to be kicked I would rather be a dog than a man! I am sure that my wife thinks about this just as I do."

"How do you know," she asked wildly, "that they will not protect you in your rights? If, as is becoming, you approach the Elector humbly with your petition, how do you know that it will be thrown aside or answered by a refusal to listen to you?"

"Very well!" answered Kohlhaas; "if my fears on the subject are unfounded, my house isn't sold yet, either. The Elector himself is just, I know, and if I can only succeed in getting past those who surround him and in reaching his person, I do not doubt that I shall secure justice, and that, before the week is out, I shall return joyfully home again to you and my old trade. In that case I would gladly stay with you," he added, kissing her, "until the end of my life! But it is advisable," he continued, "to be prepared for any emergency, and for that reason I should like you, if it is possible, to go away for a while with the children to your aunt in Schwerin, whom, moreover, you have, for some time, been intending to visit!"

"What!" cried the housewife; "I am to go to Schwerin—to go across the frontier with the children to my aunt in Schwerin?" Terror choked her words.

"Certainly," answered Kohlhaas, "and, if possible, right away, so that I may not be hindered by any family considerations in the steps I intend to take in my suit."

"Oh, I understand you!" she cried. "You now need nothing but weapons and horses; whoever will may take everything else!" With this she turned away and, in tears, flung herself down on a chair.

Kohlhaas exclaimed in alarm, "Dearest Lisbeth, what are you doing? God has blessed me with wife and children and worldly goods; am I today for the first time to wish that it were otherwise?" He sat down gently beside his wife, who at these words had flushed up and fallen on his neck. "Tell me!" said he, smoothing the curls away from her forehead. "What shall I do? Shall I give up my case? Do you wish me to go to Tronka Castle, beg the knight to restore the horses to me, mount and ride them back home?"

Lisbeth did not dare to cry out, "Yes, yes, yes!" She shook her head, weeping, and, clasping him close, kissed him passionately.

"Well, then," cried Kohlhaas, "if you feel that, in case I am to continue my trade, justice must be done me, do not deny me the liberty which I must have in order to procure it!"

With that he stood up and said to the groom who had come to tell him that the chestnut horse was saddled, "Tomorrow the bay horses must be harnessed up to take my wife to Schwerin." Lisbeth said that she had an idea! She rose, wiped the tears from her eyes, and, going over to the desk where he had seated himself, asked him if he would give her the petition and let her go to Berlin in his stead and hand it to the Elector. For more reasons than one Kohlhaas was deeply moved by this change of attitude. He drew her down on his lap, and said, "Dearest wife, that is hardly practicable. The sovereign is surrounded by a great many people; whoever wishes to approach him is exposed to many annoyances."

Lisbeth rejoined that, in a thousand cases, it was easier for a woman to approach him than it was for a man. "Give me the petition," she repeated, "and if all that you wish is the assurance that it shall reach his hands, I vouch for it; he shall receive it!"

Kohlhaas, who had many proofs of her courage as well as of her wisdom, asked her how she intended to go about it. To this she answered, looking shamefacedly at the ground, that the castellan of the Elector's palace had paid court to her in former days, when he had been in service in Schwerin; that, to be sure, he was married now

and had several children, but that she was not yet entirely forgotten, and, in short, her husband should leave it to her to take advantage of this circumstance as well as of many others which it would require too much time to enumerate. Kohlhaas kissed her joyfully, said that he accepted her proposal, and informed her that for her to lodge with the wife of the castellan would be all that was necessary to enable her to approach the sovereign inside the palace itself. Then he gave her the petition, had the bay horses harnessed, and sent her off, well bundled up, accompanied by Sternbald, his faithful groom.

Of all the unsuccessful steps, however, which he had taken in regard to his suit, this journey was the most unfortunate. For only a few days later Sternbald entered the courtyard again, leading the horses at a walk before the wagon, in which lay his wife, stretched out, with a dangerous contusion of the chest. Kohlhaas, who approached the wagon with a white face, could learn nothing coherent concerning the cause of the accident. The castellan, the groom said, had not been at home; they had therefore been obliged to put up at an inn that stood near the palace. Lisbeth had left this inn on the following morning, ordering the servant to stay behind with the horses; not until evening had she returned, and then only in this condition. It seemed she had pressed forward too boldly toward the person of the sovereign, and without any fault of his, but merely through the rough zeal of a body-guard which surrounded him, she had received a blow on the chest with the shaft of a lance. At least this was what the people said who, toward evening, had brought her back unconscious to the inn; for she herself could talk but little for the blood which flowed from her mouth. The petition had been taken from her afterward by a knight. Sternbald said that it had been his wish to jump on a horse at once and bring the news of the unfortunate accident to his master, but, in spite of the remonstrances of the surgeon who had been called in, she had insisted on being taken back to her husband at Kohlhaasenbrück without previously sending him word. She was completely exhausted by the journey and Kohlhaas put her to bed, where she lived a few days longer, struggling painfully to draw breath.

They tried in vain to restore her to consciousness in order to learn the particulars of what had occurred; she lay with fixed, already glassy eyes, and gave no answer.

Once only, shortly before her death, did she recover consciousness. A minister of the Lutheran church (which religion, then in its infancy, she had embraced, following the example of her husband) was standing beside her bed, reading in a loud solemn voice, full of emotion, a chapter of the Bible, when she suddenly looked up at him with a stern expression, and, taking the Bible out of his hand, as though there were no need to read to her from it, turned over the leaves for some time and seemed to be searching for some special passage. At last, with her fore-finger she pointed out to Kohlhaas, who was sitting beside her bed, the verse: "Forgive your enemies; do good to them that hate you." As she did so she pressed his hand with a look full of deep and tender feeling, and passed away.

Kohlhaas thought, "May God never forgive me the way I forgive the Squire!" Then he kissed her amid freely flowing tears, closed her eyes, and left the chamber.

He took the hundred gold gulden which the bailiff had already sent him for the stables in Dresden, and ordered a funeral ceremony that seemed more suitable for a princess than for her—an oaken coffin heavily trimmed with metal, cushions of silk with gold and silver tassels, and a grave eight yards deep lined with stones and mortar. He himself stood beside the vault with his youngest child in his arms and watched the work. On the day of the funeral the corpse, white as snow, was placed in a room which he had had draped with black cloth.

The minister had just completed a touching address by the side of bier when the sovereign's answer to the petition which the dead woman had presented was delivered to Kohlhaas. By this decree he was ordered to fetch the horses from Tronka Castle and, under pain of imprisonment, not to bring any further action in the matter. Kohlhaas put the letter in his pocket and had the coffin carried out to the hearse.

As soon as the mound had been raised, the cross planted on it, and the guests who had been present at the interment had taken their departure, Kohlhaas flung himself down once more before his wife's empty bed, and then set about the business of revenge.

He sat down and made out a decree in which, by virtue of his own innate authority, he condemned the Squire Wenzel Tronka within the

space of three days after sight to lead back to Kohlhaasenbrück the two black horses which he had taken from him and over-worked in the fields, and with his own hands to feed the horses in Kohlhaas' stables until they were fat again. This decree he sent off to the Squire by a mounted messenger, and instructed the latter to return to Kohlhaasenbrück as soon as he had delivered the document.

As the three days went by without the horses being returned, Kohlhaas called Herse and informed him of what he had ordered the Squire to do in regard to fattening them. Then he asked Herse two questions: first, whether he would ride with him to Tronka Castle and fetch the Squire; and, secondly, whether Herse would be willing to apply the whip to the young gentleman after he had been brought to the stables at Kohlhaasenbrück, in case he should be remiss in carrying out the conditions of the decree. As soon as Herse understood what was meant he shouted joyfully—"Sir, this very day!" and, throwing his hat into the air, he cried that he was going to have a thong with ten knots plaited in order to teach the Squire how to curry-comb. After this Kohlhaas sold the house, packed the children into a wagon, and sent them over the border. When darkness fell he called the other servants together, seven in number, and every one of them true as gold to him, armed them and provided them with mounts and set out for the Tronka Castle.

At night-fall of the third day, with this little troop he rode down the toll-gatherer and the gate-keeper who were standing in conversation in the arched gateway, and attacked the castle. They set fire to all the outbuildings in the castle inclosure, and, while, amid the outburst of the flames, Herse hurried up the winding staircase into the tower of the castellan's quarters, and with blows and stabs fell upon the castellan and the steward who were sitting, half dressed, over the cards, Kohlhaas at the same time dashed into the castle in search of the Squire Wenzel. Thus it is that the angel of judgment descends from heaven; the Squire, who, to the accompaniment of immoderate laughter, was just reading aloud to a crowd of young friends the decree which the horse-dealer had sent to him, had no sooner heard the sound of his voice in the courtyard than, turning suddenly pale as death, he cried out to the gentlemen—"Brothers, save yourselves!" and disappeared. As Kohlhaas entered the room he seized by the shoulders a certain Squire, Hans Tronka, who came at him, and flung him into

the corner of the room with such force that his brains spurted out over the stone floor. While the other knights, who had drawn their weapons, were being overpowered and scattered by the grooms, Kohlhaas asked where the Squire Wenzel Tronka was. Realizing the ignorance of the stunned men, he kicked open the doors of two apartments leading into the wings of the castle and, after searching in every direction throughout the rambling building and finding no one, he went down, cursing, into the castle yard, in order to place guards at the exits.

In the meantime, from the castle and the wings, which had caught fire from the out-buildings, thick columns of smoke were rising heavenward. While Sternbald and three busy grooms were gathering together everything in the castle that was not fastened securely and throwing it down among the horses as fair spoils, from the open windows of the castellan's quarters the corpses of the castellan and the steward, with their wives and children, were flung down into the courtyard amid the joyful shouts of Herse. As Kohlhaas descended the steps of the castle, the gouty old housekeeper who managed the Squire's establishment threw herself at his feet. Pausing on the step, he asked her where the Squire Wenzel Tronka was. She answered in a faint trembling voice that she thought he had taken refuge in the chapel. Kohlhaas then called two men with torches, and, since they had no keys, he had the door broken open with crowbars and axes. He knocked over altars and pews; nevertheless, to his anger and grief, he did not find the Squire.

It happened that, at the moment when Kohlhaas came out of the chapel, a young servant, one of the retainers of the castle, came hurrying upon his way to get the Squire's chargers out of a large stone stable which was threatened by the flames. Kohlhaas, who at that very moment spied his two blacks in a little shed roofed with straw, asked the man why he did not rescue the two blacks. The latter, sticking the key in the stable-door, answered that he surely must see that the shed was already in flames. Kohlhaas tore the key violently from the stable-door, threw it over the wall, and, raining blows as thick as hail on the man with the flat of his sword, drove him into the burning shed and, amid the horrible laughter of the bystanders, forced him to rescue the black horses. Nevertheless, when the man, pale with fright, reappeared with the horses, only a few moments before the shed fell

in behind him, he no longer found Kohlhaas. Betaking himself to the men gathered in the castle inclosure, he asked the horse-dealer, who several times turned his back on him, what he was to do with the animals now.

Kohlhaas suddenly raised his foot with such terrible force that the kick, had it landed, would have meant death; then, without answering, he mounted his bay horse, stationed himself under the gateway of the castle, and, while his men continued their work of destruction, silently awaited the break of day.

When the morning dawned the entire castle had burned down and only the walls remained standing; no one was left in it but Kohlhaas and his seven men. He dismounted from his horse and, in the bright sunlight which illuminated every crack and corner, once more searched the inclosure. When he had to admit, hard though it was for him to do so, that the expedition against the castle had failed, with a heart full of pain and grief he sent Herse and some of the other men to gather news of the direction in which the Squire had fled. He felt especially troubled about a rich nunnery for ladies of rank, Erlabrunn by name, which was situated on the shores of the Mulde, and whose abbess, Antonia Tronka, was celebrated in the neighborhood as a pious, charitable, and saintly woman. The unhappy Kohlhaas thought it only too probable that the Squire, stripped as he was of all necessities, had taken refuge in this nunnery, since the abbess was his own aunt and had been his governess in his early childhood. After informing himself of these particulars, Kohlhaas ascended the tower of the castellan's quarters in the interior of which there was still a habitable room, and there he drew up a so-called "Kohlhaas mandate" in which he warned the country not to offer assistance to Squire Wenzel Tronka, against whom he was waging just warfare, and, furthermore, commanded every inhabitant, instead, relatives and friends not excepted, to surrender him under penalty of death and the inevitable burning down of everything that might be called property.

This declaration he scattered broadcast in the surrounding country through travelers and strangers; he even went so far as to give Waldmann, his servant, a copy of it, with definite instructions to carry it to Erlabrunn and place it in the hands of Lady Antonia. Thereupon he had a talk with some of the servants of Tronka Castle who were dis-

satisfied with the Squire and, attracted by the prospect of plunder, wished to enter the horse-dealer's service. He armed them after the manner of foot-soldiers, with cross-bows and daggers, taught them how to mount behind the men on horseback, and after he had turned into money everything that the company had collected and had distributed it among them, he spent some hours in the gateway of the castle, resting after his sorry labor.

Toward midday Herse came and confirmed what Kohlhaas' heart, which was always filled with the most gloomy forebodings, had already told him—namely, that the Squire was then in the nunnery of Erlabrunn with the old Lady Antonia Tronka, his aunt. It seemed that, through a door in the rear wall behind the castle, leading into the open air, he had escaped down a narrow stone stairway which, protected by a little roof, ran down to a few boats on the Elbe. At least, Herse reported that at midnight the Squire in a skiff without rudder or oars had arrived at a village on the Elbe, to the great astonishment of the inhabitants who were assembled on account of the fire at Tronka Castle and that he had gone on toward Erlabrunn in a village cart.

Kohlhaas sighed deeply at this news; he asked whether the horses had been fed, and when they answered "Yes," he had his men mount, and in three hours' time he was at the gates of Erlabrunn. Amid the rumbling of a distant storm on the horizon, he and his troop entered the courtyard of the convent with torches which they had lighted before reaching the spot. Just as Waldmann, his servant, came forward to announce that the mandate had been duly delivered, Kohlhaas saw the abbess and the chapter-warden step out under the portal of the nunnery, engaged in agitated conversation. While the chapter-warden, a little old man with snow-white hair, shooting furious glances at Kohlhaas, was having his armor put on and, in a bold voice, called to the men-servants surrounding him to ring the storm-bell, the abbess, white as a sheet, and holding the silver image of the Crucified One in her hand, descended the sloping driveway and, with all her nuns, flung herself down before Kohlhaas' horse.

Herse and Sternbald overpowered the chapter-warden, who had no sword in his hand, and led him off as a prisoner among the horses, while Kohlhaas asked the abbess where Squire Wenzel Tronka was. She unfastened from her girdle a large ring of keys, and answered, "In Witten-

berg, Kohlhaas, worthy man!"—adding, in a shaking voice, "Fear God, and do no wrong!" Kohlhaas, plunged back into the hell of unsatisfied thirst for revenge, wheeled his horse and was about to cry, "Set fire to the buildings!" when a terrific thunder-bolt struck close beside him. Turning his horse around again toward the abbess he asked her whether she had received his mandate. The lady answered in a weak, scarcely audible voice—"Just a few moments ago!" "When?" "Two hours after the Squire, my nephew, had taken his departure, as truly as God is my help!" When Waldmann, the groom, to whom Kohlhaas turned with a lowering glance, stammered out a confirmation of this fact, saying that the waters of the Mulde, swollen by the rain, had prevented his arriving until a few moments ago, Kohlhaas came to his senses. A sudden, terrible downpour of rain, sweeping across the pavement of the courtyard and extinguishing the torches, relaxed the tension of the unhappy man's grief; doffing his hat curtly to the abbess, he wheeled his horse, dug in his spurs, calling "Follow me, my brothers; the Squire is in Wittenberg," and left the nunnery.

The night having set in, he stopped at an inn on the highroad, and had to rest here for a day because the horses were so exhausted. As he clearly saw that with a troop of ten men (for his company numbered that many now) he could not defy a place like Wittenberg, he drew up a second mandate, in which, after a short account of what had happened to him in the land, he summoned "every good Christian," as he expressed it, to whom he "solemnly promised bounty-money and other perquisites of war, to take up his quarrel against Squire Tronka as the common enemy of all Christians." In another mandate which appeared shortly after this he called himself "a free gentleman of the Empire and of the World, subject only to God"—an example of morbid and misplaced fanaticism which, nevertheless, with the sound of his money and the prospect of plunder, procured him a crowd of recruits from among the rabble, whom the peace with Poland had deprived of a livelihood. In fact, he had thirty-odd men when he crossed back to the right side of the Elbe, bent upon reducing Wittenberg to ashes.

He encamped with horses and men in an old tumble-down brick-kiln, in the solitude of a dense forest which surrounded the town at that time. No sooner had Sternbald, whom he had sent in disguise into the city with the mandate, brought him word that it was already known there, than he set out with his troop on the eve of Whitsuntide; and while

the citizens lay sound asleep, he set the town on fire at several points simultaneously. At the same time, while his men were plundering the suburbs, he fastened a paper to the door-post of a church to the effect that "he, Kohlhaas, had set the city on fire, and if the Squire were not delivered to him he would burn down the city so completely that," as he expressed it, "he would not need to look behind any wall to find him."

The terror of the citizens at such an unheard-of outrage was indescribable, though, as it was fortunately a rather calm summer night, the flames had not destroyed more than nineteen buildings, among which, however, was a church. Toward daybreak, as soon as the fire had been partially extinguished, the aged Governor of the province, Otto von Gorgas, sent out immediately a company of fifty men to capture the bloodthirsty madman. The captain in command of the company, Gerstenberg by name, bore himself so badly, however, that the whole expedition, instead of subduing Kohlhaas, rather helped him to a most dangerous military reputation. For the captain separated his men into several divisions, with the intention of surrounding and crushing Kohlhaas; but the latter, holding his troop together, attacked and beat him at isolated points, so that by the evening of the following day, not a single man of the whole company in which the hopes of the country were centered, remained in the field against him. Kohlhaas, who had lost some of his men in these fights, again set fire to the city on the morning of the next day, and his murderous measures were so well taken that once more a number of houses and almost all the barns in the suburbs were burned down. At the same time he again posted the well-known mandate, this time, furthermore, on the corners of the city hall itself, and he added a notice concerning the fate of Captain von Gerstenberg who had been sent against him by the Governor, and whom he had overwhelmingly defeated.

The Governor of the province, highly incensed at this defiance, placed himself with several knights at the head of a troop of one hundred and fifty men. At a written request he gave Squire Wenzel Tronka a guard to protect him from the violence of the people, who flatly insisted that he must be removed from the city. After the Governor had had guards placed in all the villages in the vicinity, and also had sentinels stationed on the city walls to prevent a surprise, he himself set out on Saint Gervaise's day to capture the dragon who was devastating the land.

The horse-dealer was clever enough to keep out of the way of this troop. By skilfully executed marches he enticed the Governor five leagues away from the city, and by means of various manœuvres he gave the other the mistaken notion that, hard pressed by superior numbers, he was going to throw himself into Brandenburg. Then, when the third night closed in, he made a forced ride back to Wittenberg, and for the third time set fire to the city. Herse, who crept into the town in disguise, carried out this horrible feat of daring, and because of a sharp north wind that was blowing, the fire proved so destructive and spread so rapidly that in less than three hours forty-two houses, two churches, several convents and schools, and the very residence of the electoral governor of the province were reduced to ruins and ashes.

The Governor who, when the day broke, believed his adversary to be in Brandenburg, returned by forced marches when informed of what had happened, and found the city in a general uproar. The people were massed by thousands around the Squire's house, which was barricaded with heavy timbers and posts, and with wild cries they demanded his expulsion from the city. Two burgomasters, Jenkins and Otto by name, who were present in their official dress at the head of the entire city council, tried in vain to explain that they absolutely must await the return of a courier who had been dispatched to the President of the Chancery of State for permission to send the Squire to Dresden, whither he himself, for many reasons, wished to go. The unreasoning crowd, armed with pikes and staves, cared nothing for these words. After handling rather roughly some councilors who were insisting upon the adoption of vigorous measures, the mob was about to storm the house where the Squire was and level it to the ground, when the Governor, Otto von Gorgas, appeared in the city at the head of his troopers. This worthy gentleman, who was wont by his mere presence to inspire people to respectful obedience, had, as though in compensation for the failure of the expedition from which he was returning, succeeded in taking prisoner three stray members of the incendiary's band, right in front of the gates of the city. While the prisoners were being loaded with chains before the eyes of the people, he made a clever speech to the city councilors, assuring them that he was on Kohlhaas' track and thought that he would soon be able to bring the incendiary himself in chains. By force of all these reassuring circumstances he succeeded in allaying the fears of the assembled crowd and in partially reconciling

them to the presence of the Squire until the return of the courier from Dresden. He dismounted from his horse and, accompanied by some knights, entered the house after the posts and stockades had been cleared away. He found the Squire, who was falling from one faint into another, in the hands of two doctors, who with essences and stimulants were trying to restore him to consciousness. As Sir Otto von Gorgas realized that this was not the moment to exchange any words with him on the subject of the behavior of which he had been guilty, he merely told him, with a look of quiet contempt, to dress himself, and, for his own safety, to follow him to the apartments of the knight's prison. They put a doublet and a helmet on the Squire and when, with chest half bare on account of the difficulty he had in breathing, he appeared in the street on the arm of the Governor and his brother-in-law, the Count of Gerschau, blasphemous and horrible curses against him rose to heaven. The mob, whom the lansquenets found it very difficult to restrain, called him a bloodsucker, a miserable public pest and a tormentor of men, the curse of the city of Wittenberg, and the ruin of Saxony. After a wretched march through the devastated city, in the course of which the Squire's helmet fell off several times without his missing it and had to be replaced on his head by the knight who was behind him, they reached the prison at last, where he disappeared into a tower under the protection of a strong guard. Meanwhile the return of the courier with the decree of the Elector had aroused fresh alarm in the city. For the Saxon government, to which the citizens of Dresden had made direct application in an urgent petition, refused to permit the Squire to sojourn in the electoral capital before the incendiary had been captured. The Governor was instructed rather to use all the power at his command to protect the Squire just where he was, since he had to stay somewhere, but in order to pacify the good city of Wittenberg, the inhabitants were informed that a force of five hundred men under the command of Prince Friedrich of Meissen was already on the way to protect them from further molestation on the part of Kohlhaas.

The Governor saw clearly that a decree of this kind was wholly inadequate to pacify the people. For not only had several small advantages gained by the horse-dealer in skirmishes outside the city sufficed to spread extremely disquieting rumors as to the size to which his band had grown; his way of waging warfare with ruffians in disguise who slunk about under cover of darkness with pitch, straw, and sulphur,

unheard of and quite without precedent as it was, would have rendered ineffectual an even larger protecting force than the one which was advancing under the Prince of Meissen. After reflecting a short time, the Governor determined therefore to suppress altogether the decree he had received; he merely posted at all the street corners a letter from the Prince of Meissen, announcing his arrival. At daybreak a covered wagon left the courtyard of the knight's prison and took the road to Leipzig, accompanied by four heavily armed troopers who, in an indefinite sort of way, let it be understood that they were bound for the Pleissenburg. The people having thus been satisfied on the subject of the ill-starred Squire, whose existence seemed identified with fire and sword, the Governor himself set out with a force of three hundred men to join Prince Friedrich of Meissen. In the mean time Kohlhaas, thanks to the strange position which he had assumed in the world, had in truth increased the numbers of his band to one hundred and nine men, and he had also collected in Jessen a store of weapons with which he had fully armed them. When informed of the two tempests that were sweeping down upon him, he decided to go to meet them with the speed of the hurricane before they should join to overwhelm him. In accordance with this plan he attacked the Prince of Meissen the very next night, surprising him near Mühlberg. In this fight, to be sure, he was greatly grieved to lose Herse, who was struck down at his side by the first shots but, embittered by this loss, in a three-hour battle he so roughly handled the Prince of Meissen, who was unable to collect his forces in the town, that at break of day the latter was obliged to take the road back to Dresden, owing to several severe wounds which he had received and the complete disorder into which his troops had been thrown. Kohlhaas, made foolhardy by this victory, turned back to attack the Governor before the latter could learn of it, fell upon him at midday in the open country near the village of Damerow, and fought him until nightfall, with murderous losses, to be sure, but with corresponding success. Indeed, the next morning he would certainly with the remnant of his band have renewed the attack on the Governor, who had thrown himself into the churchyard at Damerow, if the latter had not received through spies the news of the defeat of the Prince at Mühlberg and therefore deemed it wiser to return to Wittenberg to await a more propitious moment.

Five days after the dispersion of these two bodies of troops, Kohlhaas arrived before Leipzig and set fire to the city on three different sides. In the mandate which he scattered broadcast on this occasion he called himself "a vicegerent of the archangel Michael who had come to visit upon all who, in this controversy, should take the part of the Squire, punishment by fire and sword for the villainy into which the whole world was plunged." At the same time, having surprised the castle at Lützen and fortified himself in it, he summoned the people to join him and help establish a better order of things. With a sort of insane fanaticism the mandate was signed: "Done at the seat of our provisional world government, our ancient castle at Lützen."

As the good fortune of the inhabitants of Leipzig would have it, the fire, owing to a steady rain which was falling, did not spread, so that, thanks to the rapid action of the means at hand for extinguishing fires, only a few small shops which lay around the Pleissenburg went up in flames; nevertheless the presence of the desperate incendiary, and his erroneous impression that the Squire was in Leipzig, caused unspeakable consternation in the city. When a troop of one hundred and eighty men at arms that had been sent against him returned defeated, nothing else remained for the city councilors, who did not wish to jeopardize the wealth of the place, but to bar the gates completely and set the citizens to keep watch day and night outside the walls. In vain the city council had declarations posted in the villages of the surrounding country, with the positive assurance that the Squire was not in the Pleissenburg. The horse-dealer, in similar manifestos, insisted that he was in the Pleissenburg and declared that if the Squire were not there, he, Kohlhaas, would at any rate proceed as though he were until he should have been told the name of the place where his enemy was to be found. The Elector, notified by courier of the straits to which the city of Leipzig was reduced, declared that he was already gathering a force of two thousand men and would put himself at their head in order to capture Kohlhaas. He administered to Sir Otto von Gorgas a severe rebuke for the misleading and ill-considered artifice to which he had resorted to rid the vicinity of Wittenberg of the incendiary. Nor can any one describe the confusion which seized all Saxony, and especially the electoral capital, when it was learned there that in all the villages near Leipzig a declaration addressed to Kohlhaas had been

placarded, no one knew by whom, to the effect that "Wenzel, the Squire, was with his cousins Hinz and Kunz in Dresden."

It was under these circumstances that Doctor Martin Luther, supported by the authority which his position in the world gave him, undertook the task of forcing Kohlhaas, by the power of kindly words, back within the limits set by the social order of the day. Building upon an element of good in the breast of the incendiary, he had posted in all the cities and market-towns of the Electorate a placard addressed to him, which read as follows:

"Kohlhaas, thou who claimest to be sent to wield the sword of justice, what is it that thou, presumptuous man, art making bold to attempt in the madness of thy stone-blind passion—thou who are filled from head to foot with injustice? Because the sovereign, to whom thou art subject, has denied thee thy rights—thy rights in the struggle for a paltry trifle—thou arisest, godless man, with fire and sword, and like a wolf of the wilderness dost burst upon the peaceful community which he protects. Thou, who misleadest men with this declaration full of untruthfulness and guile, dost thou think, sinner, to satisfy God therewith in that future day which shall shine into the recesses of every heart? How canst thou say that thy rights have been denied thee—thou, whose savage breast, animated by the inordinate desire for base revenge, completely gave up the endeavor to procure justice after the first half-hearted attempts, which came to naught? Is a bench full of constables and beadles who suppress a letter that is presented, or who withhold a judgment that they should deliver—is this thy supreme authority? And must I tell thee, impious man, that the supreme authority of the land knows nothing whatever about thine affair—nay, more, that the sovereign against whom thou art rebelling does not even know thy name, so that when thou shalt one day come before the throne of God thinking to accuse him, he will be able to say with a serene countenance, 'I have done no wrong to this man, Lord, for my soul is ignorant of his existence.' Know that the sword which thou wieldest is the sword of robbery and bloodthirstiness. A rebel art thou, and no warrior of the righteous God; wheel and gallows are thy goal on earth—gallows and, in the life to come, damnation which is ordained for crime and godlessness.

Wittenberg, etc.

MARTIN LUTHER."

When Sternbald and Waldmann, to their great consternation, discovered the placard which had been affixed to the gateway of the castle at Lützen during the night, Kohlhaas within the castle was just revolving in his distracted mind a new plan for the burning of Leipzig—for he placed no faith in the notices posted in the villages announcing that Squire Wenzel was in Dresden, since they were not signed by any one, let alone by the municipal council, as he had required. For several days the two men hoped in vain that Kohlhaas would perceive Luther's placard, for they did not care to approach him on the subject. Gloomy and absorbed in thought, he did indeed, in the evening, appear, but only to give his brief commands, and he noticed nothing. Finally one morning, when he was about to have two of his followers strung up for plundering in the vicinity against his express orders, Sternbald and Waldmann determined to call his attention to it. With the pomp which he had adopted since his last manifesto—a large cherubim's sword on a red leather cushion, ornamented with golden tassels, borne before him, and twelve men with burning torches following him—Kohlhaas was just returning from the place of execution, while the people on both sides timidly made way for him. At that moment the two men, with their swords under their arms, walked, in a way that could not fail to excite his surprise, around the pillar to which the placard was attached.

When Kohlhaas, sunk in thought and with his hands folded behind his back, came under the portal, he raised his eyes and started back in surprise, and as the two men at sight of him drew back respectfully, he advanced with rapid steps to the pillar, watching them absent-mindedly. But who can describe the storm of emotion in his soul when he beheld there the paper accusing him of injustice, signed by the most beloved and honored name he knew—the name of Martin Luther! A dark flush spread over his face; taking off his helmet he read the document through twice from beginning to end, then walked back among his men with irresolute glances as though he were about to speak, yet said nothing. He unfastened the paper from the pillar, read it through once again, and cried, “Waldmann! have my horse saddled!”—then, “Sternbald, follow me into the castle!” and with that he disappeared. It had needed but these few words of that godly man to disarm him suddenly in the midst of all the dire destruction that he was plotting.

He threw on the disguise of a Thuringian farmer and told Sternbald that a matter of the greatest importance obliged him to go to Wittenberg. In the presence of some of his most trustworthy men he turned over to Sternbald the command of the band remaining in Lützen, and with the assurance that he would be back in three days, during which time no attack was to be feared, he departed for Wittenberg. He put up at an inn under an assumed name, and at nightfall, wrapped in his cloak and provided with a brace of pistols which he had taken at the sack of Tronka Castle, entered Luther's room. When Luther, who was sitting at his desk with a mass of books and papers before him, saw the extraordinary stranger enter his room and bolt the door behind him, he asked who he was and what he wanted. The man, who was holding his hat respectfully in his hand, had no sooner, with a diffident presentiment of the terror that he would cause, made answer that he was Michael Kohlhaas, the horse-dealer, than Luther cried out, "Stand far back from me!" and rising from the desk added, as he hurried toward a bell, "Your breath is pestilence, your presence destruction!"

Without stirring from the spot Kohlhaas drew his pistol and said, "Most reverend Sir, if you touch the bell this pistol will stretch me lifeless at your feet! Sit down and hear me. You are not safer among the angels, whose psalms you are writing down, than you are with me."

Luther sat down and asked, "What do you want?" Kohlhaas answered, "I wish to refute the opinion you have of me, that I am an unjust man! You told me in your placard that my sovereign knows nothing about my case. Very well; procure me a safe-conduct and I will go to Dresden and lay it before him."

"Impious and terrible man!" cried Luther, puzzled and, at the same time, reassured by these words. "Who gave you the right to attack Squire Tronka in pursuance of a decree issued on your own authority, and, when you did not find him in his castle, to visit with fire and sword the whole community which protects him?"

Kohlhaas answered, "Reverend Sir, no one, henceforth. Information which I received from Dresden deceived and misled me! The war which I am waging against society is a crime, so long as I haven't been cast out—and you have assured me that I have not."

"Cast out!" cried Luther, looking at him. "What mad thoughts have taken possession of you? Who could have cast you out from the

community of the state in which you lived? Indeed where, as long as states have existed, has there ever been a case of any one, no matter who, being cast out of such a community?"

"I call that man cast out," answered Kohlhaas, clenching his fist, "who is denied the protection of the laws. For I need this protection, if my peaceable business is to prosper. Yes, it is for this that, with all my possessions, I take refuge in this community, and he who denies me this protection casts me out among the savages of the desert; he places in my hand—how can you try to deny it?—the club with which to protect myself."

"Who has denied you the protection of the laws?" cried Luther. "Did I not write you that your sovereign, to whom you addressed your complaint, has never heard of it? If state-servants behind his back suppress lawsuits or otherwise trifle with his sacred name without his knowledge, who but God has the right to call him to account for choosing such servants, and are you, lost and terrible man, entitled to judge him therefor?"

"Very well," answered Kohlhaas, "if the sovereign does not cast me out I will return again to the community which he protects. Procure for me, I repeat it, safe-conduct to Dresden; then I will disperse the band of men that I have collected in the castle at Lützen and I will once again lay my complaint, which was rejected, before the courts of the land."

With an expression of vexation, Luther tossed in a heap the papers that were lying on his desk, and was silent. The attitude of defiance which this singular man had assumed toward the state irritated him, and reflecting upon the judgment which Kohlhaas had issued at Kohlhaasenbrück against the Squire, he asked what it was that he demanded of the tribunal at Dresden. Kohlhaas answered, "The punishment of the Squire according to the law; restoration of the horses to their former condition; and compensation for the damages which I, as well as my groom Herse, who fell at Mühlberg, have suffered from the outrage perpetrated upon us."

Luther cried, "Compensation for damages! Money by the thousands, from Jews and Christians, on notes and securities, you have borrowed to defray the expenses of your wild revenge! Shall you put that amount also on the bill when it comes to reckoning up the costs?"

“God forbid!” answered Kohlhaas. “House and farm and the means that I possessed I do not demand back, any more than the expenses of my wife’s funeral! Herse’s old mother will present the bill for her son’s medical treatment, as well as a list of those things which he lost at Tronka Castle; and the loss which I suffered on account of not selling the black horses the government may have estimated by an expert.”

Luther exclaimed, as he gazed at him, “Mad, incomprehensible, and amazing man! After your sword has taken the most ferocious revenge upon the Squire which could well be imagined, what impels you to insist upon a judgment against him, the severity of which, when it is finally pronounced, will fall so lightly upon him?”

Kohlhaas answered, while a tear rolled down his cheek, “Most reverend Sir! It has cost me my wife; Kohlhaas intends to prove to the world that she did not perish in an unjust quarrel. Do you, in these particulars, yield to my will and let the court of justice speak; in all other points that may be contested I will yield to you.”

Luther said, “See here, what you demand is just, if indeed the circumstances are such as is commonly reported; and if you had only succeeded in having your suit decided by the sovereign before you arbitrarily proceeded to avenge yourself, I do not doubt that your demands would have been granted, point for point. But, all things considered, would it not have been better for you to pardon the Squire for your Redeemer’s sake, take back the black horses, thin and worn-out as they were, and mount and ride home to Kohlhaasenbrück to fatten them in your own stable?”

Kohlhaas answered, “Perhaps!” Then, stepping to the window, “Perhaps not, either! Had I known that I should be obliged to set them on their feet again with blood from the heart of my dear wife, I might, reverend Sir, perhaps have done as you say and not have considered a bushel of oats! But since they have now cost me so dear, let the matter run its course, say I; have judgment be pronounced as is due me, and have the Squire fatten my horses for me.”

Turning back to his papers with conflicting thoughts, Luther said that he would enter into negotiations with the Elector on his behalf; in the mean time let him remain quietly in the castle at Lützen. If the sovereign would consent to accord him free-conduct, they would make the fact known to him by posting it publicly. “To be sure,” he continued,

as Kohlhaas bent to kiss his hand, "whether the Elector will be lenient, I do not know, for I have heard that he has collected an army and is about to start out to apprehend you in the castle at Lützen; however, as I have already told you, there shall be no lack of effort on my part"—and, as he spoke, he got up from his chair prepared to dismiss him. Kohlhaas declared that Luther's intercession completely reassured him on that point, whereupon Luther bowed to him with a sweep of his hand. Kohlhaas, however, suddenly sank down on one knee before him and said he had still another favor to ask of him—the fact was, that at Whitsuntide, when it was his custom to receive the Holy Communion, he had failed to go to church on account of this warlike expedition of his. Would Luther have the goodness to receive his confession without further preparation and, in exchange, administer to him the blessed Holy Sacrament? Luther, after reflecting a short time, scanned his face, and said, "Yes, Kohlhaas, I will do so. But the Lord, whose body you desire, forgave his enemy. Will you likewise," he added, as the other looked at him disconcerted, "forgive the Squire who has offended you? Will you go to Tronka Castle, mount your black horses, ride them back to Kohlhaasenbrück and fatten them there?"

"Your Reverence!" said Kohlhaas flushing, and seized his hand—

"Well?"

"Even the Lord did not forgive all his enemies. Let me forgive the Elector, my two gentlemen the castellan and the steward, the lords Hinz and Kunz, and whoever else may have injured me in this affair; but, if it is possible, suffer me to force the Squire to fatten my black horses again for me."

At these words Luther turned his back on him, with a displeased glance, and rang the bell. In answer to the summons an amanuensis came into the anteroom with a light, and Kohlhaas, wiping his eyes, rose from his knees disconcerted; and since the amanuensis was working in vain at the door, which was bolted, and Luther had sat down again to his papers, Kohlhaas opened the door for the man. Luther glanced for an instant over his shoulder at the stranger, and said to the amanuensis, "Light the way!" whereupon the latter, somewhat surprised at the sight of the visitor, took down from the wall the key to the outside door and stepped back to the half-opened door of the

room, waiting for the stranger to take his departure. Kohlhaas, holding his hat nervously in both hands, said, "And so, most reverend Sir, I cannot partake of the benefit of reconciliation, which I solicited of you?"

Luther answered shortly, "Reconciliation with your Savior—no! With the sovereign—that depends upon the success of the attempt which I promised you to make." And then he motioned to the amanuensis to carry out, without further delay, the command he had given him. Kohlhaas laid both hands on his heart with an expression of painful emotion, and disappeared after the man who was lighting him down the stairs.

On the next morning Luther dispatched a message to the Elector of Saxony in which, after a bitter allusion to the lords, Hinz and Kunz Tronka, Chamberlain and Cup-bearer to his Highness, who, as was generally known, had suppressed the petition, he informed the sovereign, with the candor that was peculiar to him, that under such notorious circumstances there was nothing to do but to accept the proposition of the horse-dealer and to grant him an amnesty for what had occurred so that he might have opportunity to renew his lawsuit. Public opinion, Luther remarked, was on the side of this man to a very dangerous extent—so much so that, even in Wittenberg, which had three times been burnt down by him, there was a voice raised in his favor. And since, if his offer were refused, Kohlhaas would undoubtedly bring it to the knowledge of the people, accompanied by malicious comments, and the populace might easily be so far misled that nothing further could be done against him by the authorities of the state, Luther concluded that, in this extraordinary case, scruples about entering into negotiations with a subject who had taken up arms must be passed over; that, as a matter of fact, the latter, by the conduct which had been observed toward him, had in a sense been cast out of the body politic, and, in short, in order to put an end to the matter, he should be regarded rather as a foreign power which had attacked the land (and, since he was not a Saxon subject, he really might, in a way, be regarded as such), than as a rebel in revolt against the throne.

When the Elector received this letter there were present at the palace Prince Christiern of Meissen, Generalissimo of the Empire, uncle of that Prince Friedrich of Meissen who had been defeated at Mühlberg and was still laid up with his wounds, also the Grand Chancellor of the

Tribunal, Count Wrede, Count Kallheim, President of the Chancery of State, and the two lords, Hinz and Kunz Tronka, the former Cup-bearer, the latter Chamberlain—all confidential friends of the sovereign from his youth. The Chamberlain, Sir Kunz, who in his capacity of privy councilor, attended to the private correspondence of his master and had the right to use his name and seal, was the first to speak. He once more explained in detail that never, on his own authority, would he have suppressed the complaint which the horse-dealer had lodged in court against his cousin the Squire, had it not been for the fact that, misled by false statements, he had believed it an absolutely unfounded and worthless piece of mischief-making. After this he passed on to consider the present state of affairs. He remarked that by neither divine nor human laws had the horse-dealer been warranted in wreaking such horrible vengeance as he had allowed himself to take for this mistake. The Chamberlain then proceeded to describe the glory that would fall upon the damnable head of the latter if they should negotiate with him as with a recognized military power, and the ignominy which would thereby be reflected upon the sacred person of the Elector seemed to him so intolerable that, carried away by the fire of his eloquence, he declared he would rather let worst come to worst, see the judgment of the mad rebel carried out and his cousin, the Squire, led off to Kohlhaasenbrück to fatten the black horses, than know that the proposition made by Dr. Luther had been accepted.

The Lord High Chancellor of the Tribunal of Justice, Count Wrede, turning half way round toward him, expressed regret that the Chamberlain had not, in the first instance, been inspired with such tender solicitude for the reputation of the sovereign as he was displaying in the solution of this undoubtedly delicate affair. He represented to the Elector his hesitation about employing the power of the state to carry out a manifestly unjust measure. He remarked, with a significant allusion to the great numbers which the horse-dealer was continually recruiting in the country, that the thread of the crime threatened in this way to be spun out indefinitely, and declared that the only way to sunder it and extricate the government happily from that ugly quarrel was to act with plain honesty and to make good, directly and without respect of person, the mistake which they had been guilty of committing.

Prince Christiern of Meissen, when asked by the Elector to express his opinion, turned deferentially toward the Grand Chancellor and de-

clared that the latter's way of thinking naturally inspired in him the greatest respect, but, in wishing to aid Kohlhaas to secure justice, the Chancellor failed to consider that he was wronging Wittenberg, Leipzig, and the entire country that had been injured by him, in depriving them of their just claim for indemnity or at least for punishment of the culprit. The order of the state was so disturbed in its relation to this man that it would be difficult to set it right by an axiom taken from the science of law. Therefore, in accord with the opinion of the Chamberlain, he was in favor of employing the means appointed for such cases—that is to say, there should be gathered a force large enough to enable them either to capture or to crush the horse-dealer, who had planted himself in the castle at Lützen. The Chamberlain brought over two chairs from the wall and obligingly placed them together in the middle of the room for the Elector and the Prince, saying, as he did so, that he was delighted to find that a man of the latter's uprightness and acumen agreed with him about the means to be employed in settling an affair of such varied aspect. The Prince, placing his hand on the chair without sitting down, looked at him, and assured him that he had little cause to rejoice on that account since the first step connected with this course would be the issuing of a warrant for his arrest, to be followed by a suit for misuse of the sovereign's name. For if necessity required that the veil be drawn before the throne of justice over a series of crimes, which finally would be unable to find room before the bar of judgment, since each led to another, and no end—this at least did not apply to the original offense which had given birth to them. First and foremost, he, the Chamberlain, must be tried for his life if the state was to be authorized to crush the horse-dealer, whose case, as was well known, was exceedingly just, and in whose hand they had placed the sword that he was wielding.

The discomfited Chamberlain at these words gazed at the Elector, who turned away, his whole face flushing, and walked over to the window. After an embarrassing silence on all sides, Count Kallheim said that this was not the way to extricate themselves from the magic circle in which they were captive. His nephew, Prince Friedrich, might be put upon trial with equal justice, for in the peculiar expedition which he had undertaken against Kohlhaas he had overstepped his instructions in many ways—so much so that, if one were to inquire about the whole long list of those who had caused the embarrassment

in which they now found themselves, he too would have to be named among them and called to account by the sovereign for what had occurred at Mühlberg.

While the Elector, with doubtful glances, walked up to his table, the Cup-bearer, Sir Hinz Tronka, began to speak in his turn. He did not understand, he said, how the governmental decree which was to be passed could escape men of such wisdom as were here assembled. The horse-dealer, so far as he knew, in return for mere safe-conduct to Dresden and a renewed investigation of his case, had promised to disband the force with which he had attacked the land. It did not follow from this, however, that he must be granted an amnesty for the wanton revenge he had taken into his own hands. These were two different legal concepts which Dr. Luther, as well as the council of state, seemed to have confounded. "When," he continued, laying his finger beside his nose, "the judgment concerning the black horses has been pronounced by the Tribunal at Dresden, no matter what it may be, nothing prevents us from imprisoning Kohlhaas on the ground of his incendiarism and robberies. That would be a diplomatic solution of the affair, which would unite the advantages of the opinion of both statesmen and would be sure to win the applause of the world and of posterity." The Prince, as well as the Lord Chancellor, answered this speech of Sir Hinz with a mere glance, and, as the discussion accordingly seemed at an end, the Elector said that he would turn over in his own mind, until the next sitting of the State Council, the various opinions which had been expressed before him. It seemed as if the preliminary measure mentioned by the Prince had deprived the Elector's heart, which was very sensitive where friendship was concerned, of the desire to proceed with the campaign against Kohlhaas, all the preparations for which were completed; at least he bade the Lord Chancellor, Count Wrede, whose opinion appeared to him the most expedient, to remain after the others left. The latter showed him letters from which it appeared that, as a matter of fact, the horse-dealer's forces had already come to number four hundred men; indeed, in view of the general discontent which prevailed all over the country on account of the misdemeanors of the Chamberlain, he might reckon on doubling or even tripling this number in a short time. Without further hesitation the Elector decided to accept the advice given him by Dr. Luther; accordingly he handed over to Count Wrede the entire manage-

ment of the Kohlhaas affair. Only a few days later a placard appeared, the essence of which we give as follows:

“We, etc., etc., Elector of Saxony, in especially gracious consideration of the intercession made to us by Doctor Martin Luther, do grant to Michael Kohlhaas, horse-dealer from the territory of Brandenburg, safe-conduct to Dresden for the purpose of a renewed investigation of his case, on condition that, within three days after sight, he lay down the arms to which he has had recourse. It is to be understood, however, that in the unlikely event of Kohlhaas’ suit concerning the black horses being rejected by the Tribunal at Dresden, he shall be prosecuted with all the severity of the law for arbitrarily undertaking to procure justice for himself. Should his suit, however, terminate otherwise, we will show mercy to him and his whole band, instead of inflicting deserved punishment, and a complete amnesty shall be accorded him for the acts of violence which he has committed in Saxony.”

Kohlhaas had no sooner received through Dr. Luther a copy of this placard, which had been posted in all the public squares throughout the land, than, in spite of the conditional language in which it was couched, he immediately dispersed his whole band of followers with presents, expressions of gratitude, and appropriate admonitions. He deposited whatever he had taken in the way of money, weapons, and chattels, with the courts at Lützen, to be held as the property of the Elector, and after he had dispatched Waldmann to the bailiff at Kohlhassenbrück with letters about repurchasing his farm, if that were still possible, and had sent Sternbald to Schwerin for his children whom he wished to have with him again, he left the castle at Lützen and went, without being recognized, to Dresden, carrying with him in bonds the remnant of his little property.

Day was just breaking and the whole city was still asleep when he knocked at the door of the little dwelling situated in the suburb of Pirna, which still, thanks to the honesty of the bailiff, belonged to him. Thomas, the old porter, in charge of the establishment, who on opening the door was surprised and startled to see his master, was told to take word to the Prince of Meissen, in the Government Office, that Kohlhaas the horse-dealer had arrived. The Prince of Meissen, on hearing this news, deemed it expedient to inform himself immediately of the relation in which they stood to this man. When, shortly

afterward, he appeared with a retinue of knights and servants, he found an immense crowd of people already gathered in the streets leading to Kohlhaas' dwelling. The news that the destroying angel was there, who punished the oppressors of the people with fire and sword, had aroused all Dresden, the city as well as the suburbs. They were obliged to bolt the door of the house against the press of curious people, and the boys climbed up to the windows in order to get a peep at the incendiary, who was eating his breakfast inside.

As soon as the Prince, with the help of the guard who cleared the way for him, had pushed into the house and entered Kohlhaas' room, he asked the latter, who was standing half undressed before a table, whether he was Kohlhaas, the horse-dealer. Kohlhaas, drawing from his belt a wallet containing several papers concerning his affairs and handing it respectfully to the Prince, answered, "Yes;" and added that, in conformity with the immunity granted him by the sovereign, he had come to Dresden, after disbanding his force, in order to institute proceedings against Squire Wenzel Tronka on account of the black horses.

The Prince, after a hasty glance which took Kohlhaas in from head to foot, looked through the papers in the wallet and had him explain the nature of a certificate which he found there executed by the court at Lützen, concerning the deposit made in favor of the treasury of the Electorate. After he had further tested him with various questions about his children, his wealth, and the sort of life he intended to lead in the future, in order to find out what kind of man he was, and had concluded that in every respect they might set their minds at rest about him, he gave him back the documents and said that nothing now stood in the way of his lawsuit, and that, in order to institute it, he should just apply directly to the Lord High Chancellor of the Tribunal, Count Wrede himself. "In the meantime," said the Prince after a pause, crossing over to the window and gazing in amazement at the people gathered in front of the house, "you will be obliged to consent to a guard for the first few days, to protect you in your house as well as when you go out!" Kohlhaas looked down disconcerted, and was silent. "Well, no matter," said the Prince, leaving the window; "whatever happens, you have yourself to blame for it;" and with that he turned again toward the door with the intention of leaving the house. Kohlhaas, who had reflected, said "My lord, do as you like! If you will give me your word that the guard will be withdrawn as soon as I wish it, I have no objection

to this measure." The Prince answered, "That is understood, of course." He informed the three foot-soldiers, who were appointed for this purpose, that the man in whose house they were to remain was free, and that it was merely for his protection that they were to follow him when he went out; he then saluted the horse-dealer with a condescending wave of the hand, and took his leave.

Toward midday Kohlhaas went to Count Wrede, Lord High Chancellor of the Tribunal; he was escorted by his three foot-soldiers and followed by an innumerable crowd, who, having been warned by the police, did not try to harm him in any way. The Chancellor received him in his antechamber with benignity and kindness, conversed with him for two whole hours, and after he had had the entire course of the affair related to him from beginning to end, referred Kohlhaas to a celebrated lawyer in the city who was a member of the Tribunal, so that he might have the complaint drawn up and presented immediately.

Kohlhaas, without further delay, betook himself to the lawyer's house and had the suit drawn up exactly like the original one which had been quashed. He demanded the punishment of the Squire according to law, the restoration of the horses to their former condition, and compensation for the damages he had sustained as well as for those suffered by his groom, Herse, who had fallen at Mühlberg—in behalf of the latter's old mother. When this was done Kohlhaas returned home, accompanied by the crowd that still continued to gape at him, firmly resolved in his mind not to leave the house again unless called away by important business.

In the meantime the Squire had been released from his imprisonment in Wittenberg, and after recovering from a dangerous attack of erysipelas which had caused inflammation of his foot, had been summoned by the Supreme Court in peremptory terms to present himself in Dresden to answer the suit instituted against him by the horse-dealer, Kohlhaas, with regard to a pair of black horses which had been unlawfully taken from him and worked to death. The Tronka brothers, the Chamberlain and the Cup-bearer, cousins of the Squire, at whose house he alighted, received him with the greatest bitterness and contempt. They called him a miserable good-for-nothing, who had brought shame and disgrace on the whole family, told him that he would inevitably lose his suit, and called upon him to prepare at once to

produce the black horses, which he would be condemned to fatten to the scornful laughter of the world. The Squire answered in a weak and trembling voice that he was more deserving of pity than any other man on earth. He swore that he had known but little about the whole cursed affair which had plunged him into misfortune, and that the castellan and the steward were to blame for everything, because they, without his knowledge or consent, had used the horses in getting in the crops and, by overworking them, partly in their own fields, had rendered them unfit for further use. He sat down as he said this and begged them not to mortify and insult him and thus wantonly cause a relapse of the illness from which he had but recently recovered.

Since there was nothing else to be done, the next day, at the request of their cousin, the Squire, the lords Hinz and Kunz, who possessed estates in the neighborhood of Tronka Castle, which had been burned down, wrote to their stewards and to the farmers living there for information about the black horses which had been lost on that unfortunate day and not heard of since. But on account of the complete destruction of the castle and the massacre of most of the inhabitants, all that they could learn was that a servant, driven by blows dealt with the flat of the incendiary's sword, had rescued them from the burning shed in which they were standing, but that afterward, to the question where he should take them and what he should do with them, he had been answered by a kick from the savage madman. The Squire's gouty old housekeeper, who had fled to Meissen, assured the latter, in reply to his written inquiry, that on the morning after that horrible night the servant had gone off with the horses toward the Brandenburg border, but all inquiries which were made there proved vain, and some error seemed to lie at the bottom of this information, as the Squire had no servant whose home was in Brandenburg or even on the road thither. Some men from Dresden, who had been in Wilsdruf a few days after the burning of Tronka Castle, declared that, at the time named, a groom had arrived in that place, leading two horses by the halter, and, as the animals were very sick and could go no further, he had left them in the cow-stable of a shepherd who had offered to restore them to good condition. For a variety of reasons it seemed very probable that these were the black horses for which search was being made, but persons coming from Wilsdruf declared that the shepherd had already traded them off again, no one knew to whom; and a third rumor, the originator

of which could not be discovered, even asserted that the two horses had in the meantime passed peacefully away and been buried in the carrion pit at Wilsdruf.

This turn of affairs, as can be easily understood, was the most pleasing to the lords Hinz and Kunz, as they were thus relieved of the necessity of fattening the blacks in their stables, the Squire, their cousin, no longer having any stables of his own. They wished, however, for the sake of absolute security, to verify this circumstance. Sir Wenzel Tronka, therefore, in his capacity as hereditary feudal lord with the right of judicature, addressed a letter to the magistrates at Wilsdruf, in which, after a minute description of the black horses, which, as he said, had been intrusted to his care and lost through an accident, he begged them to be so obliging as to ascertain their present whereabouts, and to urge and admonish the owner, whoever he might be, to deliver them at the stables of the Chamberlain, Sir Kunz, in Dresden, and be generously reimbursed for all costs. Accordingly, a few days later, the man to whom the shepherd in Wilsdruf had sold them did actually appear with the horses, thin and staggering, tied to the tailboard of his cart, and led them to the market-place in Dresden. As the bad luck of Sir Wenzel and still more of honest Kohlhaas would have it, however, the man happened to be the knacker from Döbeln.

As soon as Sir Wenzel, in the presence of the Chamberlain, his cousin, learned from an indefinite rumor that a man had arrived in the city with two black horses which had escaped from the burning of Tronka Castle, both gentlemen, accompanied by a few servants hurriedly collected in the house, went to the palace square where the man had stopped, intending, if the two animals proved to be those belonging to Kohlhaas, to make good the expenses the man had incurred and take the horses home with them. But how disconcerted were the knights to see a momentarily increasing crowd of people, who had been attracted by the spectacle, already standing around the two-wheeled cart to which the horses were fastened! Amid uninterrupted laughter they were calling to one another that the horses, on account of which the whole state was tottering, already belonged to the knacker! The Squire who had gone around the cart and gazed at the miserable animals, which seemed every moment about to expire, said in an embarrassed way that those were not the horses which he had taken from

Kohlhaas; but Sir Kunz, the Chamberlain, casting at him a look of speechless rage which, had it been of iron, would have dashed him to pieces, and throwing back his cloak to disclose his orders and chain, stepped up to the knacker and asked if those were the black horses which the shepherd at Wilsdruf had gained possession of, and for which Squire Wenzel Tronka, to whom they belonged, had made requisition through the magistrate of that place.

The knacker who, with a pail of water in his hand, was busy watering a fat, sturdy horse that was drawing his cart asked—"The blacks?" Then he put down the pail, took the bit out of the horse's mouth, and explained that the black horses which were tied to the tailboard of the cart had been sold to him by the swineherd in Hainichen; where the latter had obtained them and whether they came from the shepherd at Wilsdruf—that he did not know. "He had been told," he continued, taking up the pail again and propping it between the pole of the cart and his knee—"he had been told by the messenger of the court at Wilsdruf to take the horses to the house of the Tronkas in Dresden, but the Squire to whom he had been directed was named Kunz." With these words he turned around with the rest of the water which the horse had left in the pail, and emptied it out on the pavement. The Chamberlain, who was beset by the stares of the laughing, jeering crowd and could not induce the fellow, who was attending to his business with phlegmatic zeal, to look at him, said that he was the Chamberlain Kunz Tronka. The black horses, however, which he was to get possession of, had to be those belonging to the Squire, his cousin; they must have been given to the shepherd at Wilsdruf by a stable-man who had run away from Tronka Castle at the time of the fire; moreover, they must be the two horses that originally had belonged to the horse-dealer Kohlhaas. He asked the fellow, who was standing there with his legs apart, pulling up his trousers, whether he did not know something about all this. Had not the swineherd of Hainichen, he went on, perhaps purchased these horses from the shepherd at Wilsdruf, or from a third person, who in turn had bought them from the latter?—for everything depended on this circumstance.

The knacker replied that he had been ordered to go with the black horses to Dresden and was to receive the money for them in the house of the Tronkas. He did not understand what the Squire was talking

about, and whether it was Peter or Paul, or the shepherd in Wilsdruf, who had owned them before the swineherd in Hainichen, was all one to him so long as they had not been stolen; and with this he went off, with his whip across his broad back, to a public house which stood in the square, with the intention of getting some breakfast, as he was very hungry.

The Chamberlain, who for the life of him didn't know what he should do with the horses which the swineherd of Hainichen had sold to the knacker of Döbeln, unless they were those on which the devil was riding through Saxony, asked the Squire to say something; but when the latter with white, trembling lips replied that it would be advisable to buy the black horses whether they belonged to Kohlhaas or not, the Chamberlain, cursing the father and mother who had given birth to the Squire, stepped aside out of the crowd and threw back his cloak, absolutely at a loss to know what he should do or leave undone. Defiantly determined not to leave the square just because the rabble were staring at him derisively and with their handkerchiefs pressed tight over their mouths seemed to be waiting only for him to depart before bursting out into laughter, he called to Baron Wenk, an acquaintance who happened to be riding by, and begged him to stop at the house of the Lord High Chancellor, Count Wrede, and through the latter's instrumentality to have Kohlhaas brought there to look at the black horses.

When the Baron, intent upon this errand, entered the chamber of the Lord High Chancellor, it so happened that Kohlhaas was just then present, having been summoned by a messenger of the court to give certain explanations of which they stood in need concerning the deposit in Lützen. While the Chancellor, with an annoyed look, rose from his chair and asked the horse-dealer, whose person was unknown to the Baron, to step to one side with his papers, the latter informed him of the dilemma in which the lords Tronka found themselves. He explained that the knacker from Döbeln, acting on a defective requisition from the court at Wilsdruf, had appeared with horses whose condition was so frightful that Squire Wenzel could not help hesitating to pronounce them the ones belonging to Kohlhaas. In case they were to be taken from the knacker notwithstanding, and an attempt made to restore them to good condition in the stables of the knights, an ocular inspection by Kohlhaas would first be necessary in order to establish the aforesaid circumstance beyond doubt. "Will you there-

fore have the goodness," he concluded, "to have a guard fetch the horse-dealer from his house and conduct him to the market-place where the horses are standing?" The Lord High Chancellor, taking his glasses from his nose, said that the Baron was laboring under a double delusion—first, in thinking that the fact in question could be ascertained only by means of an ocular inspection by Kohlhaas, and then, in imagining that he, the Chancellor, possessed the authority to have Kohlhaas taken by a guard wherever the Squire happened to wish. With this he presented to him Kohlhaas who was standing behind him, and sitting down and putting on his glasses again, begged him to apply to the horse-dealer himself in the matter.

Kohlhaas, whose expression gave no hint of what was going on in his mind, said that he was ready to follow the Baron to the market-place and inspect the black horses which the knacker had brought to the city. As the disconcerted Baron faced around toward him, Kohlhaas stepped up to the table of the Chancellor, and, after taking time to explain to him, with the help of the papers in his wallet, several matters concerning the deposit in Lützen, took his leave. The Baron, who had walked over to the window, his face suffused with a deep blush, likewise made his adieux, and both, escorted by the three foot-soldiers assigned by the Prince of Meissen, took their way to the Palace square attended by a great crowd of people.

In the mean time the Chamberlain, Sir Kunz, in spite of the protests of several friends who had joined him, had stood his ground among the people, opposite the knacker of Döbeln. As soon as the Baron and the horse-dealer appeared he went up to the latter and, holding his sword proudly and ostentatiously under his arm, asked if the horses standing behind the wagon were his.

The horse-dealer, turning modestly toward the gentleman who had asked him the question and who was unknown to him, touched his hat; then, without answering, he walked toward the knacker's cart, surrounded by all the knights. The animals were standing there on unsteady legs, with heads bowed down to the ground, making no attempt to eat the hay which the knacker had placed before them. Kohlhaas stopped a dozen feet away, and after a hasty glance turned back again to the Chamberlain, saying, "My lord, the knacker is quite right; the horses which are fastened to his cart belong to me!" As he spoke

he looked around at the whole circle of knights, touched his hat once more, and left the square, accompanied by his guard.

At these words the Chamberlain, with a hasty step that made the plume of his helmet tremble, strode up to the knacker and threw him a purse full of money. And while the latter, holding the purse in his hand, combed the hair back from his forehead with a leaden comb and stared at the money, Sir Kunz ordered a groom to untie the horses and lead them home. The groom, at the summons of his master, left a group of his friends and relatives among the crowd; his face flushed slightly, but he did, nevertheless, go up to the horses, stepping over a big puddle that had formed at their feet. No sooner, however, had he taken hold of the halter to untie them, than Master Himboldt, his cousin, seized him by the arm, and with the words, "You shan't touch the knacker's jades!" hurled him away from the cart. Then, stepping back unsteadily over the puddle, the Master turned toward the Chamberlain, who was standing there, speechless with astonishment at this incident, and added that he must get a knacker's man to do him such a service as that. The Chamberlain, foaming with rage, stared at Master Himboldt for a moment, then turned about and, over the heads of the knights who surrounded him, called for the guard. When, in obedience to the orders of Baron Wenk, an officer with some of the Elector's body-guards had arrived from the palace, Sir Kunz gave him a short account of the shameful way in which the burghers of the city permitted themselves to instigate revolt, and called upon the officer to place the ringleader, Master Himboldt, under arrest. Seizing the Master by the chest, the Chamberlain accused him of having maltreated and thrust away from the cart the groom who, at his orders, was unhitching the black horses. The Master, freeing himself from the Chamberlain's grasp with a skilful twist which forced the latter to step back, cried, "My lord, showing a boy of twenty what he ought to do is not instigating him to revolt! Ask him whether, contrary to all that is customary and decent, he cares to have anything to do with those horses that are tied to the cart. If he wants to do it after what I have said, well and good. For all I care, he may flay and skin them now."

At these words the Chamberlain turned round to the groom and asked him if he had any scruples about fulfilling his command to untie the horses which belonged to Kohlhaas and lead them home. When the groom, stepping back among the citizens, answered timidly that the

horses must be made honorable once more before that could be expected of him, the Chamberlain followed him, tore from the young man's head the hat which was decorated with the badge of his house, and, after trampling it under his feet, drew his sword and with furious blows drove the groom instantly from the square and from his service. Master Himboldt cried, "Down with the bloodthirsty madman, friends!" And while the citizens, outraged at this scene, crowded together and forced back the guard, he came up behind the Chamberlain and threw him down, tore off his cloak, collar, and helmet, wrenched the sword from his hand, and dashed it with a furious fling far away across the square.

In vain did the Squire Wenzel, as he worked his way out of the crowd, call to the knights to go to his cousin's aid; even before they had started to rescue him, they had been so scattered by the rush of the mob that the Chamberlain, who in falling had injured his head, was exposed to the full wrath of the crowd. The only thing that saved him was the appearance of a troop of mounted soldiers who chanced to be crossing the square, and whom the officer of the Elector's bodyguards called to his assistance. The officer, after dispersing the crowd, seized the furious Master Himboldt, and, while some of the troopers bore him off to prison, two friends picked up the unfortunate Chamberlain, who was covered with blood, and carried him home.

Such was the unfortunate outcome of the well-meant and honest attempt to procure the horse-dealer satisfaction for the injustice that had been committed against him. The knacker of Döbeln, whose business was concluded, and who did not wish to delay any longer, tied the horses to a lamppost, since the crowd was beginning to scatter, and there they remained the whole day through without any one's bothering about them, an object of mockery for the street-arabs and loafers. Finally, since they lacked any sort of care and attention, the police were obliged to take them in hand, and, toward evening, the knacker of Dresden was called to carry them off to the knacker's house outside the city to await further instructions.

This incident, as little as the horse-dealer was in reality to blame for it, nevertheless awakened throughout the country, even among the more moderate and better class of people, a sentiment extremely dangerous to the success of his lawsuit. The relation of this man to the state

was felt to be quite intolerable and, in private houses as well as in public places, the opinion gained ground that it would be better to commit an open injustice against him and quash the whole lawsuit anew, rather than, for the mere sake of satisfying his mad obstinacy, to accord him in so trivial a matter justice which he had wrung from them by deeds of violence.

To complete the ruin of poor Kohlhaas, it was the Lord High Chancellor himself, animated by too great probity, and a consequent hatred of the Tronka family, who helped strengthen and spread this sentiment. It was highly improbable that the horses, which were now being cared for by the knacker of Dresden, would ever be restored to the condition they were in when they left the stables at Kohlhaasenbrück. However, granted that this might be possible by skilful and constant care, nevertheless the disgrace which, as a result of the existing circumstances, had fallen upon the Squire's family was so great that, in consideration of the political importance which the house possessed—being, as it was, one of the oldest and noblest families in the land—nothing seemed more just and expedient than to arrange a money indemnity for the horses. In spite of this, a few days later, when the President, Count Kallheim, in the name of the Chamberlain, who was deterred by his sickness, sent a letter to the Chancellor containing this proposition, the latter did indeed send a communication to Kohlhaas in which he admonished him not to decline such a proposition should it be made to him; but in a short and rather curt answer to the President himself the Chancellor begged him not to bother him with private commissions in this matter and advised the Chamberlain to apply to the horse-dealer himself, whom he described as a very just and modest man. The horse-dealer, whose will was, in fact, broken by the incident which had occurred in the market-place, was, in conformity with the advice of the Lord Chancellor, only waiting for an overture on the part of the Squire or his relatives in order to meet them half-way with perfect willingness and forgiveness for all that had happened; but to make this overture entailed too great a sacrifice of dignity on the part of the proud knights. Very much incensed by the answer they had received from the Lord Chancellor, they showed the same to the Elector, who on the morning of the following day had visited the Chamberlain in his room where he was confined to his bed with his wounds.

In a voice rendered weak and pathetic by his condition, the Chamberlain asked the Elector whether, after risking his life to settle this affair according to his sovereign's wishes, he must also expose his honor to the censure of the world and to appear with a request for relenting and compromise before a man who had brought every imaginable shame and disgrace on him and his family.

The Elector, after having read the letter, asked Count Kallheim in an embarrassed way whether, without further communication with Kohlhaas, the Tribunal were not authorized to base its decision on the fact that the horses could not be restored to their original condition, and in conformity therewith to draw up the judgment just as if the horses were dead, on the sole basis of a money indemnity.

The Count answered, "Most gracious sovereign, they are dead; they are dead in the sight of the law because they have no value, and they will be so physically before they can be brought from the knacker's house to the knights' stables." To this the Elector, putting the letter in his pocket, replied that he would himself speak to the Lord Chancellor about it. He spoke soothingly to the Chamberlain, who raised himself on his elbow and seized his hand in gratitude, and, after lingering a moment to urge him to take care of his health, rose with a very gracious air and left the room.

Thus stood affairs in Dresden, when from the direction of Lützen there gathered over poor Kohlhaas another thunder-storm, even more serious, whose lightning-flash the crafty knights were clever enough to draw down upon the horse-dealer's unlucky head. It so happened that one of the band of men that Kohlhaas had collected and turned off again after the appearance of the electoral amnesty, Johannes Nagelschmidt by name, had found it expedient, some weeks later, to muster again on the Bohemian frontier a part of this rabble which was ready to take part in any infamy, and to continue on his own account the profession on the track of which Kohlhaas had put him. This good-for-nothing fellow called himself a vicegerent of Kohlhaas, partly to inspire with fear the officers of the law who were after him, and partly, by the use of familiar methods, to beguile the country people into participating in his rascalities. With a cleverness which he had learned from his master, he had it noised abroad that the amnesty had not been kept in the case of several men who had quietly returned to their

homes—indeed that Kohlhaas himself had, with a faithlessness which cried aloud to heaven, been arrested on his arrival in Dresden and placed under a guard. He carried it so far that, in manifestos which were very similar to those of Kohlhaas, his incendiary band appeared as an army raised solely for the glory of God and meant to watch over the observance of the amnesty promised by the Elector. All this, as we have already said, was done by no means for the glory of God nor out of attachment for Kohlhaas, whose fate was a matter of absolute indifference to the outlaws, but in order to enable them, under cover of such dissimulation, to burn and plunder with the greater ease and impunity.

When the first news of this reached Dresden the knights could not conceal their joy over the occurrence, which lent an entirely different aspect to the whole matter. With wise and displeased allusions they recalled the mistake which had been made when, in spite of their urgent and repeated warnings, an amnesty had been granted Kohlhaas, as if those who had been in favor of it had had the deliberate intention of giving to miscreants of all kinds the signal to follow in his footsteps. Not content with crediting Nagelschmidt's pretext that he had taken up arms merely to lend support and security to his oppressed master, they even expressed the decided opinion that his whole course was nothing but an enterprise contrived by Kohlhaas in order to frighten the government, and to hasten and insure the rendering of a verdict, which, point for point, should satisfy his mad obstinacy. Indeed the Cup-bearer, Sir Hinz, went so far as to declare to some hunting-pages and courtiers who had gathered round him after dinner in the Elector's antechamber that the breaking up of the marauding band in Lützen had been but a cursed pretense. He was very merry over the Lord High Chancellor's alleged love of justice; by cleverly connecting various circumstances he proved that the band was still extant in the forests of the Electorate and was only waiting for a signal from the horse-dealer to break out anew with fire and sword.

Prince Christiern of Meissen, very much displeased at this turn in affairs, which threatened to fleck his sovereign's honor in the most painful manner, went immediately to the palace to confer with the Elector. He saw quite clearly that it would be to the interest of the knights to ruin Kohlhaas, if possible, on the ground of new crimes, and he begged the Elector to give him permission to have an immediate

judicial examination of the horse-dealer. Kohlhaas, somewhat astonished at being conducted to the Government Office by a constable, appeared with his two little boys, Henry and Leopold, in his arms; for Sternbald, his servant, had arrived the day before with his five children from Mecklenburg, where they had been staying. When Kohlhaas had started to leave for the Government Office the two boys had burst into childish tears, begging him to take them along, and various considerations too intricate to unravel made him decide to pick them up and carry them with him to the hearing. Kohlhaas placed the children beside him, and the Prince, after looking benevolently at them and asking, with friendly interest, their names and ages, went on to inform Kohlhaas what liberties Nagelschmidt, his former follower, was taking in the valleys of the Ore Mountains, and handing him the latter's so-called mandates he told him to produce whatever he had to offer for his vindication. Although the horse-dealer was deeply alarmed by these shameful and traitorous papers, he nevertheless had little difficulty in explaining satisfactorily to so upright a man as the Prince the groundlessness of the accusations brought against him on this score. Besides the fact that, so far as he could observe, he did not, as the matter now stood, need any help as yet from a third person in bringing about the decision of his lawsuit, which was proceeding most favorably, some papers which he had with him and showed to the Prince made it appear highly improbable that Nagelschmidt should be inclined to render him help of that sort, for, shortly before the dispersion of the band in Lützen, he had been on the point of having the fellow hanged for a rape committed in the open country, and other rascalities. Only the appearance of the electoral amnesty had saved Nagelschmidt, as it had severed all relations between them, and on the next day they had parted as mortal enemies.

Kohlhaas, with the Prince's approval of the idea, sat down and wrote a letter to Nagelschmidt in which he declared that the latter's pretense of having taken the field in order to maintain the amnesty which had been violated with regard to him and his band, was a disgraceful and vicious fabrication. He told him that, on his arrival in Dresden, he had neither been imprisoned nor handed over to a guard, also that his lawsuit was progressing exactly as he wished, and, as a warning for the rabble who had gathered around Nagelschmidt, he gave him over to the full vengeance of the law for the outrages which he had committed

in the Ore Mountains after the publication of the amnesty. Some portions of the criminal prosecution which the horse-dealer had instituted against him in the castle at Lützen on account of the above-mentioned disgraceful acts, were also appended to the letter to enlighten the people concerning the good-for-nothing fellow, who even at that time had been destined for the gallows, and, as already stated, had only been saved by the edict issued by the Elector. In consequence of this letter the Prince appeased Kohlhaas' displeasure at the suspicion which, of necessity, they had been obliged to express in this hearing; he went on to declare that, while he remained in Dresden, the amnesty granted him should not be violated in any way; then, after presenting to the boys some fruit that was on his table, he shook hands with them once more, saluted Kohlhaas, and dismissed him.

The Lord High Chancellor, who nevertheless recognized the danger that was threatening the horse-dealer, did his utmost to bring his lawsuit to an end before it should be complicated and confused by new developments; this, however, was exactly what the diplomatic knights desired and aimed at. Instead of silently acknowledging their guilt, as at first, and obtaining merely a less severe sentence, they now began with pettifogging and crafty subterfuges to deny this guilt itself entirely. Sometimes they pretended that the black horses belonging to Kohlhaas had been detained at Tronka Castle on the arbitrary authority of the castellan and the steward, and that the Squire had known little, if anything, of their actions. At other times they declared that, even on their arrival at the castle, the animals had been suffering from a violent and dangerous cough, and, in confirmation of the fact, they referred to witnesses whom they pledged themselves to produce. Forced to withdraw these arguments after many long-drawn-out investigations and explanations, they even cited an electoral edict of twelve years before, in which the importation of horses from Brandenburg into Saxony had actually been forbidden, on account of a plague among the cattle. This circumstance, according to them, made it as clear as day that the Squire not only had the authority, but also was under obligation, to hold up the horses that Kohlhaas had brought across the border. Kohlhaas, meanwhile, had bought back his farm at Kohlhaasenbrück from the honest bailiff, in return for a small compensation for the loss sustained. He wished, apparently in connection with the legal settlement of this business, to leave Dresden for

some days and return to his home, in which determination, however, the above-mentioned matter of business, imperative as it may actually have been on account of sowing the winter crops, undoubtedly played less part than the intention of testing his position under such unusual and critical circumstances. He may perhaps also have been influenced by reasons of still another kind which we will leave to every one who is acquainted with his own heart to divine.

In pursuance of this resolve he betook himself to the Lord Chancellor, leaving behind the guard which had been assigned to him. He carried with him the letters from the bailiff, and explained that if, as seemed to be the case, he were not urgently needed in court, he would like to leave the city and go to Brandenburg for a week or ten days, within which time he promised to be back again. The Lord High Chancellor, looking down with a displeased and dubious expression, replied that he must acknowledge that Kohlhaas' presence was more necessary just then than ever, as the court, on account of the prevaricating and tricky tactics of the opposition, required his statements and explanations at a thousand points that could not be foreseen. However, when Kohlhaas referred him to his lawyer, who was well informed concerning the lawsuit, and with modest importunity persisted in his request, promising to confine his absence to a week, the Lord Chancellor, after a pause, said briefly, as he dismissed him, that he hoped that Kohlhaas would apply to Prince Christiern of Meissen for passports.

Kohlhaas, who could read the Lord Chancellor's face perfectly, was only strengthened in his determination. He sat down immediately and, without giving any reason, asked the Prince of Meissen, as head of the Government Office, to furnish him passports for a week's journey to Kohlhaasenbrück and back. In reply to this letter he received a cabinet order signed by the Governor of the Palace, Baron Siegfried Wenk, to the effect that his request for passports to Kohlhaasenbrück would be laid before his serene highness the Elector, and as soon as his gracious consent had been received the passports would be sent to him. When Kohlhaas inquired of his lawyer how the cabinet order came to be signed by a certain Baron, Siegfried Wenk, and not by Prince Christiern of Meissen to whom he had applied, he was told that the Prince had set out for his estates three days before, and during his absence the affairs of the Government Office had been put in the hands of the

Governor of the Palace, Baron Siegfried Wenk, a cousin of the gentleman of the same name who has been already mentioned.

Kohlhaas, whose heart was beginning to beat uneasily amid all these complications, waited several days for the decision concerning his petition which had been laid before the person of the sovereign with such a surprising amount of formality. A week passed, however, and more than a week, without the arrival of this decision; nor had judgment been pronounced by the Tribunal, although it had been definitely promised him. Finally, on the twelfth day, Kohlhaas, firmly resolved to force the government to proclaim its intentions toward him, let them be what they would, sat down and, in an urgent request, once more asked the Government Office for the desired passports. On the evening of the following day, which had likewise passed without the expected answer, he was walking up and down, thoughtfully considering his position and especially the amnesty procured for him by Dr. Luther, when, on approaching the window of his little back room, he was astonished not to see the soldiers in the little out-building on the courtyard which he had designated as quarters for the guard assigned him by the Prince of Meissen at the time of his arrival. He called Thomas, the old porter, to him and asked what it meant. The latter answered with a sigh, "Sir, something is wrong! The soldiers, of whom there are more today than usual, distributed themselves around the whole house when it began to grow dark; two with shield and spear are standing in the street before the front door, two are at the back door in the garden, and two others are lying on a truss of straw in the vestibule and say that they are going to sleep there."

Kohlhaas grew pale and turned away, adding that it really did not matter, provided they were still there, and that when Thomas went down into the corridor he should place a light so that the soldiers could see. Then he opened the shutter of the front window under the pretext of emptying a vessel, and convinced himself of the truth of the circumstance of which the old man had informed him, for just at that moment the guard was actually being changed without a sound, a precaution which had never before entered any one's head as long as the arrangement had existed. After which, Kohlhaas, having made up his mind immediately what he would do on the morrow, went to bed, though, to be sure, he felt little desire to sleep. For nothing in the course of the government with which he was dealing displeased him

more than this outward form of justice, while in reality it was violating in his case the amnesty promised him, and in case he were to be considered really a prisoner—as could no longer be doubted—he intended to wring from the government the definite and straightforward statement that such was the case.

In accordance with this plan, at earliest dawn he had Sternbald, his groom, harness his wagon and drive up to the door, intending, as he explained, to drive to Lockwitz to see the steward, an old acquaintance of his, who had met him a few days before in Dresden and had invited him and his children to visit him some time. The soldiers, who, putting their heads together, had watched the stir which these preparations were causing in the household, secretly sent off one of their number to the city and, a few minutes later, a government clerk appeared at the head of several constables and went into the house opposite, pretending to have some business there. Kohlhaas, who was occupied in dressing his boys, likewise noticed the commotion and intentionally kept the wagon waiting in front of the house longer than was really necessary. As soon as he saw that the arrangements of the police were completed, without paying any attention to them he came out before the house with his children. He said, in passing, to the group of soldiers standing in the doorway that they did not need to follow him; then he lifted the boys into the wagon and kissed and comforted the weeping little girls who, in obedience to his orders, were to remain behind with the daughter of the old porter. He had no sooner climbed up on the wagon himself than the government clerk, with the constables who accompanied him, stepped up from the opposite house and asked where he was going. To the answer of Kohlhaas that he was going to Lockwitz to see his friend, the steward, who a few days before had invited him and his two boys to visit him in the country, the clerk replied that in that case Kohlhaas must wait a few moments, as some mounted soldiers would accompany him in obedience to the order of the Prince of Meissen. From his seat on the wagon Kohlhaas asked smilingly whether he thought that his life would not be safe in the house of a friend who had offered to entertain him at his table for a day.

The official answered in a pleasant, joking way that the danger was certainly not very great, adding that the soldiers were not to incommod him in any way. Kohlhaas replied, seriously, that on his arrival in Dresden the Prince of Meissen had left it to his own choice whether

he would make use of the guard or not, and as the clerk seemed surprised at this circumstance and with carefully chosen phrases reminded him that he had employed the guard during the whole time of his presence in the city, the horse-dealer related to him the incident which had led to the placing of the soldiers in his house. The clerk assured him that the orders of the Governor of the Palace, Baron Wenk, who was at that moment head of the police force, made it his duty to watch over Kohlhaas' person continually, and begged him, if he would not consent to the escort, to go to the Government Office himself so as to correct the mistake which must exist in the matter. Kohlhaas threw a significant glance at the clerk and, determined to put an end to the matter by hook or by crook, said that he would do so. With a beating heart he got down from the wagon, had the porter carry the children back into the corridor, and while his servant remained before the house with the wagon, Kohlhaas went off to the Government Office, accompanied by the clerk and his guard.

It happened that the Governor of the Palace, Baron Wenk, was busy at the moment inspecting a band of Nagelschmidt's followers who had been captured in the neighborhood of Leipzig and brought to Dresden the previous evening. The knights who were with the Governor were just questioning the fellows about a great many things which the government was anxious to learn from them, when the horse-dealer entered the room with his escort. The Baron, as soon as he caught sight of Kohlhaas, went up to him and asked him what he wanted, while the knights grew suddenly silent and interrupted the interrogation of the prisoners. When Kohlhaas had respectfully submitted to him his purpose of going to dine with the steward at Lockwitz, and expressed the wish to be allowed to leave behind the soldiers of whom he had no need, the Baron, changing color and seeming to swallow some words of a different nature, answered that Kohlhaas would do well to stay quietly at home and to postpone for the present the feast at the Lockwitz steward's. With that he turned to the clerk, thus cutting short the whole conversation, and told him that the order which he had given him with regard to this man held good, and that the latter must not leave the city unless accompanied by six mounted soldiers.

Kohlhaas asked whether he were a prisoner, and whether he should consider that the amnesty which had been solemnly promised to him before the eyes of the whole world had been broken. At which the

Baron, his face turning suddenly a fiery red, wheeled around and, stepping close up to him and looking him in the eyes, answered, "Yes! Yes! Yes!" Then he turned his back upon him and, leaving Kohlhaas standing there, returned to Nagelschmidt's followers.

At this Kohlhaas left the room, and although he realized that the steps he had taken had rendered much more difficult the only means of rescue that remained, namely, flight, he nevertheless was glad he had done as he had, since he was now, on his part, likewise released from obligation to observe the conditions of the amnesty. When he reached home he had the horses unharnessed, and, very sad and shaken, went to his room accompanied by the government clerk. While this man, in a way which aroused the horse-dealer's disgust, assured him that it must all be due to a misunderstanding which would shortly be cleared up, the constables, at a sign from him, bolted all the exits which led from the house into the courtyard. At the same time the clerk assured Kohlhaas that the main entrance at the front of the house still remained open and that he could use it as he pleased.

Nagelschmidt, meanwhile, had been so hard pushed on all sides by constables and soldiers in the woods of the Ore Mountains, that, entirely deprived, as he was, of the necessary means of carrying through a rôle of the kind which he had undertaken, he hit upon the idea of inducing Kohlhaas to take sides with him in reality. As a traveler passing that way had informed him fairly accurately of the status of Kohlhaas' lawsuit in Dresden, he believed that, in spite of the open enmity which existed between them, he could persuade the horse-dealer to enter into a new alliance with him. He therefore sent off one of his men to him with a letter, written in almost unreadable German, to the effect that if he would come to Altenburg and resume command of the band which had gathered there from the remnants of his former troops who had been dispersed, he, Nagelschmidt, was ready to assist him to escape from his imprisonment in Dresden by furnishing him with horses, men, and money. At the same time he promised Kohlhaas that, in the future, he would be more obedient and in general better and more orderly than he had been before; and to prove his faithfulness and devotion he pledged himself to come in person to the outskirts of Dresden in order to effect Kohlhaas' deliverance from his prison.

The fellow charged with delivering this letter had the bad luck, in a village close to Dresden, to be seized with a violent fit, such as he had been subject to from childhood. In this situation, the letter which he was carrying in his vest was found by the persons who came to his assistance; the man himself, as soon as he had recovered, was arrested and transported to the Government Office under guard, accompanied by a large crowd of people. As soon as the Governor of the Palace, Wenk, had read this letter, he went immediately to the palace to see the Elector; here he found present also the President of the Chancery of State, Count Kallheim, and the lords Kunz and Hinz, the former of whom had recovered from his wounds. These gentlemen were of the opinion that Kohlhaas should be arrested without delay and brought to trial on the charge of secret complicity with Nagelschmidt. They went on to demonstrate that such a letter could not have been written unless there had been preceding letters written by the horse-dealer, too, and that it would inevitably result in a wicked and criminal union of their forces for the purpose of plotting fresh iniquities.

The Elector steadfastly refused to violate, merely on the ground of this letter, the safe-conduct he had solemnly promised to Kohlhaas. He was more inclined to believe that Nagelschmidt's letter made it rather probable that no previous connection had existed between them, and all he would do to clear up the matter was to assent, though only after long hesitation, to the President's proposition to have the letter delivered to Kohlhaas by the man whom Nagelschmidt had sent, just as though he had not been arrested, and see whether Kohlhaas would answer it. In accordance with this plan the man, who had been thrown into prison, was taken to the Government Office the next morning. The Governor of the Palace gave him back the letter and, promising him freedom and the remission of the punishment which he had incurred, commanded him to deliver the letter to the horse-dealer as though nothing had happened. As was to be expected, the fellow lent himself to this low trick without hesitation. In apparently mysterious fashion he gained admission to Kohlhaas' room under the pretext of having crabs to sell, with which, in reality, the government clerk had supplied him in the market.

Kohlhaas, who read the letter while the children were playing with the crabs, would certainly have seized the imposter by the collar and

handed him over to the soldiers standing before his door, had the circumstances been other than they were. But since, in the existing state of men's minds, even this step was likewise capable of an equivocal interpretation, and as he was fully convinced that nothing in the world could rescue him from the affair in which he was entangled, he gazed sadly into the familiar face of the fellow, asked him where he lived, and bade him return in a few hours' time, when he would inform him of his decision in regard to his master. He told Sternbald, who happened to enter the door, to buy some crabs from the man in the room, and when this business was concluded and both men had gone away without recognizing each other, Kohlhaas sat down and wrote a letter to Nagelschmidt to the following effect: "First, that he accepted his proposition concerning the leadership of his band in Altenburg, and that accordingly, in order to free him from the present arrest in which he was held with his five children, Nagelschmidt should send him a wagon with two horses to Neustadt near Dresden. Also that, to facilitate progress, he would need another team of two horses on the road to Wittenberg, which way, though roundabout, was the only one he could take to come to him, for reasons which it would require too much time to explain. He thought that he would be able to win over by bribery the soldiers who were guarding him, but in case force were necessary he would like to know that he could count on the presence of a couple of stout-hearted, capable, and well-armed men in the suburb of Neustadt. To defray the expenses connected with all these preparations, he was sending Nagelschmidt by his follower a roll of twenty gold crowns concerning the expenditure of which he would settle with him after the affair was concluded. For the rest, Nagelschmidt's presence being unnecessary, he would ask him not to come in person to Dresden to assist at his rescue—nay, rather, he gave him the definite order to remain behind in Altenburg in provisional command of the band which could not be left without a leader."

When the man returned toward evening, he delivered this letter to him, rewarded him liberally, and impressed upon him that he must take good care of it.

Kohlhaas' intention was to go to Hamburg with his five children and there to take ship for the Levant, the East Indies, or the most

distant land where the blue sky stretched above people other than those he knew. For his heart, bowed down by grief, had renounced the hope of ever seeing the black horses fattened, even apart from the reluctance that he felt in making common cause with Nagelschmidt to that end.

Hardly had the fellow delivered this answer of the horse-dealer's to the Governor of the Palace when the Lord High Chancellor was deposed, the President, Count Kallheim, was appointed Chief Justice of the Tribunal in his stead, and Kohlhaas was arrested by a special order of the Elector, heavily loaded with chains, and thrown into the city tower. He was brought to trial upon the basis of this letter, which was posted at every street-corner of the city. When a councilor held it up before Kohlhaas at the bar of the Tribunal and asked whether he acknowledged the handwriting, he answered, "Yes;" but to the question as to whether he had anything to say in his defense, he looked down at the ground and replied, "No." He was therefore condemned to be tortured with red-hot pincers by knacker's men, to be drawn and quartered, and his body to be burned between the wheel and the gallows.

Thus stood matters with poor Kohlhaas in Dresden when the Elector of Brandenburg appeared to rescue him from the clutches of arbitrary, superior power, and, in a note laid before the Chancery of State in Dresden, claimed him as a subject of Brandenburg. For the honest City Governor, Sir Heinrich von Geusau, during a walk on the banks of the Spree, had acquainted the Elector with the story of this strange and irreprehensible man, on which occasion, pressed by the questions of the astonished sovereign, he could not avoid mentioning the blame which lay heavy upon the latter's own person through the unwarranted actions of his Arch-Chancellor, Count Siegfried von Kallheim. The Elector was extremely indignant about the matter and after he had called the Arch-Chancellor to account and found that the relationship which he bore to the house of the Tronkas was to blame for it all, he deposed Count Kallheim at once, with more than one token of his displeasure, and appointed Sir Heinrich von Geusau to be Arch-Chancellor in his stead.

Now it so happened that, just at that time, the King of Poland, being at odds with the House of Saxony, for what occasion we do not know,

approached the Elector of Brandenburg with repeated and urgent arguments to induce him to make common cause with them against the House of Saxony, and, in consequence of this, the Arch-Chancellor, Sir Geusau, who was not unskilful in such matters, might very well hope that, without imperiling the peace of the whole state to a greater extent than consideration for an individual warrants, he would now be able to fulfil his sovereign's desire to secure justice for Kohlhaas at any cost whatever.

Therefore the Arch-Chancellor did not content himself with demanding, on the score of wholly arbitrary procedure, displeasing to God and man, that Kohlhaas should be unconditionally and immediately surrendered, so that, if guilty of a crime, he might be tried according to the laws of Brandenburg on charges which the Dresden Court might bring against him through an attorney at Berlin; but Sir Heinrich von Geusau even went so far as himself to demand passports for an attorney whom the Elector of Brandenburg wished to send to Dresden in order to secure justice for Kohlhaas against Squire Wenzel Tronka on account of the black horses which had been taken from him on Saxon territory and other flagrant instances of ill-usage and acts of violence. The Chamberlain, Sir Kunz, in the shifting of public offices in Saxony, had been appointed President of the State Chancery, and, hard pressed as he was, desired, for a variety of reasons, not to offend the Court of Berlin. He therefore answered in the name of his sovereign, who had been very greatly cast down by the note he had received, that they wondered at the unfriendliness and unreasonableness which had prompted the government of Brandenburg to contest the right of the Dresden Court to judge Kohlhaas according to their laws for the crimes which he had committed in the land, as it was known to all the world that the latter owned a considerable piece of property in the capital, and he did not himself dispute his qualification as a Saxon citizen.

But as the King of Poland was already assembling an army of five thousand men on the frontier of Saxony to fight for his claims, and as the Arch-Chancellor, Sir Heinrich von Geusau, declared that Kohlhasenbrück, the place after which the horse-dealer was named, was situated in Brandenburg, and that they would consider the execution of the sentence of death which had been pronounced upon him to be a violation of international law, the Elector of Saxony, upon the advice

of the Chamberlain, Sir Kunz himself, who wished to back out of the affair, summoned Prince Christiern of Meissen from his estate, and decided, after a few words with this sagacious nobleman, to surrender Kohlhaas to the Court of Berlin in accordance with their demand.

The Prince, who, although very much displeased with the unseemly blunders which had been committed, was forced to take over the conduct of the Kohlhaas affair at the wish of his hard-pressed master, asked the Elector what charge he now wished to have lodged against the horse-dealer in the Supreme Court at Berlin. As they could not refer to Kohlhaas' fatal letter to Nagelschmidt because of the questionable and obscure circumstances under which it had been written, nor mention the former plundering and burning because of the edict in which the same had been pardoned, the Elector determined to lay before the Emperor's Majesty at Vienna a report concerning the armed invasion of Saxony by Kohlhaas, to make complaint concerning the violation of the public peace established by the Emperor, and to solicit His Majesty, since he was of course not bound by any amnesty, to call Kohlhaas to account therefor before the Court Tribunal at Berlin through an attorney of the Empire.

A week later the horse-dealer, still in chains, was packed into a wagon by the Knight Friedrich of Malzahn, whom the Elector of Brandenburg had sent to Dresden at the head of six troopers; and, together with his five children, who at his request had been collected from various foundling hospitals and orphan asylums, was transported to Berlin.

It so happened that the Elector of Saxony, accompanied by the Chamberlain, Sir Kunz, and his wife, Lady Heloise, daughter of the High Bailiff and sister of the President, not to mention other brilliant ladies and gentlemen, hunting-pages and courtiers, had gone to Dahme at the invitation of the High Bailiff, Count Aloysius of Kallheim, who at that time possessed a large estate on the border of Saxony, and, to entertain the Elector, had organized a large stag-hunt there. Under the shelter of tents gaily decorated with pennons, erected on a hill over against the highroad, the whole company, still covered with the dust of the hunt, was sitting at table, served by pages, while lively music sounded from the trunk of an oak-tree, when Kohlhaas with his escort of troopers came riding slowly along the road from Dresden. The

sudden illness of one of Kohlhaas' delicate young children had obliged the Knight of Malzahn, who was his escort, to delay three whole days in Herzberg. Having to answer for this act only to the Prince whom he served, the Knight had not thought it necessary to inform the government of Saxony of the delay. The Elector, with throat half bare, his plumed hat decorated with sprigs of fir, as is the way of hunters, was seated beside Lady Heloise, who had been the first love of his early youth. The charm of the fête which surrounded him having put him in good humor, he said, "Let us go and offer this goblet of wine to the unfortunate man, whoever he may be."

Lady Heloise, casting an entrancing glance at him, got up at once, and, plundering the whole table, filled a silver dish which a page handed her with fruit, cakes, and bread. The entire company had already left the tent in a body, carrying refreshments of every kind, when the High Bailiff came toward them and with an embarrassed air begged them to remain where they were. In answer to the Elector's disconcerted question as to what had happened that he should show such confusion, the High Bailiff turned toward the Chamberlain and answered, stammering, that it was Kohlhaas who was in the wagon. At this piece of news, which none of the company could understand, as it was well known that the horse-dealer had set out six days before, the Chamberlain, Sir Kunz, turning back toward the tent, poured out his glass of wine on the ground. The Elector, flushing scarlet, set his glass down on a plate which a page, at a sign from the Chamberlain, held out to him for this purpose, and while the Knight, Friedrich von Malzahn, respectfully saluting the company, who were unknown to him, passed slowly under the tent ropes that were stretched across the highroad and continued on his way to Dahme, the lords and ladies, at the invitation of the High Bailiff, returned to the tent without taking any further notice of the party. As soon as the Elector had sat down again, the High Bailiff dispatched a messenger secretly to Dahme intending to have the magistrate of that place see to it that the horse-dealer continued his journey immediately; but since the Knight of Malzahn declared positively that, as the day was too far gone, he intended to spend the night in the place, they had to be content to lodge Kohlhaas quietly at a farm-house belonging to the magistrate, which lay off the main road, hidden away among the bushes,

Now it came about toward evening, when all recollection of the incident had been driven from the minds of the lords and ladies by the wine and the abundant dessert they had enjoyed, that the High Bailiff proposed they should again lie in wait for a herd of stags which had shown itself in the vicinity. The whole company took up the suggestion joyfully, and after they had provided themselves with guns went off in pairs, over ditches and hedges, into the near-by forest. Thus it was that the Elector and Lady Heloise, who was hanging on his arm in order to watch the sport, were, to their great astonishment, led by a messenger who had been placed at their service, directly across the court of the house in which Kohlhaas and the Brandenburg troopers were lodged. When Lady Heloise was informed of this she cried, "Your Highness, come!" and playfully concealing inside his silken vest the chain which hung around his neck she added, "Before the crowd follows us let us slip into the farm-house and have a look at the singular man who is spending the night here." The Elector blushed and seized her hand exclaiming, "Heloise! What are you thinking of?" But as she, looking at him with amazement, pulled him along and assured him that no one would ever recognize him in the hunting-costume he had on, and as, moreover, at this very moment a couple of hunting-pages who had already satisfied their curiosity came out of the house, and announced that in truth, on account of an arrangement made by the High Bailiff, neither the Knight nor the horse-dealer knew what company was assembled in the neighborhood of Dahme, the Elector pulled his hat down over his eyes with a smile and said, "Folly, thou rulest the world, and thy throne is a beautiful woman's mouth!"

Kohlhaas was sitting just then on a bundle of straw with his back against the wall, feeding bread and milk to his child who had been taken ill at Herzberg, when Lady Heloise and the Elector entered the farm-house to visit him. To start the conversation, Lady Heloise asked him who he was and what was the matter with the child; also what crime he had committed and where they were taking him with such an escort. Kohlhaas doffed his leather cap to her and, continuing his occupation, made laconic but satisfactory answers to all these questions. The Elector, who was standing behind the hunting-pages, remarked a little leaden locket hanging on a silk string around the horse-dealer's neck, and, since no better topic of conversation offered itself, he asked him what it signified and what was in it. Kohlhaas answered,

“Oh, yes, worshipful Sir, this locket!” and with that he slipped it from his neck, opened it, and took out a little piece of paper with writing on it, sealed with a wafer. “There is a strange tale connected with this locket. It may be some seven months ago, on the very day after my wife’s funeral—and, as you perhaps know, I had left Kohlhaasenbrück in order to get possession of Squire Tronka, who had done me great wrong—that in the market-town of Jüterbock, through which my expedition led me, the Elector of Saxony and the Elector of Brandenburg had met to discuss I know not what matter. As they had settled it to their liking shortly before evening, they were walking in friendly conversation through the streets of the town in order to take a look at the annual fair which was just being held there with much merry-making. They came upon a gipsy who was sitting on a stool, telling from the calendar the fortunes of the crowd that surrounded her. The two sovereigns asked her jokingly if she did not have something pleasing to reveal to them too? I had just dismounted with my troop at an inn, and happened to be present in the square where this incident occurred, but as I was standing at the entrance of a church, behind all the people, I could not hear what the strange woman said to the two lords. The people began to whisper to one another laughingly that she did not impart her knowledge to every one, and to crowd together to see the spectacle which was preparing, so that I, really more to make room for the curious than out of curiosity on my part, climbed on a bench behind me which was carved in the entrance of the church. From this point of vantage I could see with perfect ease the two sovereigns and the old woman, who was sitting on the stool before them apparently scribbling something down. But hardly had I caught sight of them, when suddenly she got up, leaning on her crutches, and, gazing around at the people, fixed her eye on me, who had never exchanged a word with her nor ever in all my life consulted her art. Pushing her way over to me through the dense crowd, she said, ‘There! If the gentleman wishes to know his fortune, he may ask you about it!’ And with these words, your Worship, she stretched out her thin bony hands to me and gave me this paper. All the people turned around in my direction, as I said, amazed, ‘Grandam, what in the world is this you are giving me?’ After mumbling a lot of inaudible nonsense, amid which, however, to my great surprise, I made out my own name, she answered, ‘An amulet, Kohlhaas the horse-dealer;

take good care of it; some day it will save your life!’—and vanished. Well, Kohlhaas continued good-naturedly, “to tell the truth, close as was the call in Dresden, I did not lose my life; but how I shall fare in Berlin and whether the charm will help me out there too, the future must show.”

At these words the Elector seated himself on a bench, and although to Lady Heloise’s frightened question as to what was the matter with him, he answered, “Nothing, nothing at all!”—yet, before she could spring forward and catch him in her arms, he had sunk down unconscious to the floor.

The Knight of Malzahn who entered the room at this moment on some errand, exclaimed, “Good heavens, what is the matter with the gentleman!” Lady Heloise cried, “Bring some water!” The hunting-pages raised the Elector and carried him to a bed in the next room, and the consternation reached its height when the Chamberlain, who had been summoned by a page, declared, after repeated vain efforts to restore him to consciousness, that he showed every sign of having been struck by apoplexy. The Cup-bearer sent a mounted messenger to Luckau for the doctor, and then, as the Elector opened his eyes, the High Bailiff had him placed in a carriage and transported at a walk to his hunting-castle near-by; this journey, however, caused two more fainting spells after he had arrived there. Not until late the next morning, on the arrival of the doctor from Luckau, did he recover somewhat, though showing definite symptoms of an approaching nervous fever. As soon as he had returned to consciousness he raised himself on his elbow, and his very first question was, “Where is Kohlhaas?” The Chamberlain, misunderstanding the question, said, as he took his hand, that he might set his heart at rest on the subject of that horrible man, as the latter, after that strange and incomprehensible incident, had by his order remained behind in the farm-house at Dahme with the escort from Brandenburg. Assuring the Elector of his most lively sympathy, and protesting that he had most bitterly reproached his wife for her inexcusable indiscretion in bringing about a meeting between him and this man, the Chamberlain went on to ask what could have occurred during the interview to affect his master so strangely and profoundly.

The Elector answered that he was obliged to confess to him that the sight of an insignificant piece of paper, which the man carried about with him in a leaden locket, was to blame for the whole unpleasant incident which had befallen him. To explain the circumstance, he added a variety of other things which the Chamberlain could not understand, then suddenly, clasping the latter's hand in his own, he assured him that the possession of this paper was of the utmost importance to himself and begged Sir Kunz to mount immediately, ride to Dahme, and purchase the paper for him from the horse-dealer at any price. The Chamberlain, who had difficulty in concealing his embarrassment, assured him that, if this piece of paper had any value for him, nothing in the world was more necessary than to conceal the fact from Kohlhaas, for if the latter should receive an indiscreet intimation of it, all the riches the Elector possessed would not be sufficient to buy it from the hands of this vindictive fellow, whose passion for revenge was insatiable. To calm his master he added that they must try to find another method, and that, as the miscreant probably was not especially attached to it for its own sake, perhaps, by using stratagem, they might get possession of the paper, which was of so much importance to the Elector, through the instrumentality of a third wholly disinterested person.

The Elector, wiping away the perspiration, asked if they could not send immediately to Dahme for this purpose and put a stop to the horse-dealer's being transported further for the present until, by some means or other, they had obtained possession of the paper. The Chamberlain, who could hardly believe his senses, replied that unhappily, according to all probable calculations, the horse-dealer must already have left Dahme and be across the border on the soil of Brandenburg; any attempt to interfere there with his being carried away, or actually to put a stop to it altogether, would give rise to difficulties of the most unpleasant and intricate kind, or even to such as it might perchance be impossible to overcome at all. As the Elector silently sank back on the pillow with a look of utter despair, the Chamberlain asked him what the paper contained and by what surprising and inexplicable chance he knew that the contents concerned himself. At this, however, the Elector cast several ambiguous glances at the Chamberlain, whose obligingness he distrusted on this occasion, and gave no answer. He lay there rigid, with his heart beating tumultuously, and looked down at the corner of the handkerchief which he was holding in his

hands as if lost in thought. Suddenly he begged the Chamberlain to call to his room the hunting-page, Stein, an active, clever young gentleman whom he had often employed before in affairs of a secret nature, under the pretense that he had some other business to negotiate with him.

After he had explained the matter to the hunting-page and impressed upon him the importance of the paper which was in Kohlhaas' possession, the Elector asked him whether he wished to win an eternal right to his friendship by procuring this paper for him before the horse-dealer reached Berlin. As soon as the page had to some extent grasped the situation, unusual though it was, he assured his master that he would serve him to the utmost of his ability. The Elector therefore charged him to ride after Kohlhaas, and as it would probably be impossible to approach him with money, Stein should, in a cleverly conducted conversation, proffer him life and freedom in exchange for the paper—indeed, if Kohlhaas insisted upon it, he should, though with all possible caution, give him direct assistance in escaping from the hands of the Brandenburg troopers who were convoying him, by furnishing him with horses, men, and money.

The hunting-page, after procuring as a credential a paper written by the Elector's own hand, did immediately set out with several men, and by not sparing the horses' wind he had the good luck to overtake Kohlhaas in a village on the border, where with his five children and the Knight of Malzahn he was eating dinner in the open air before the door of a house. The hunting-page introduced himself to the Knight of Malzahn as a stranger who was passing by and wished to have a look at the extraordinary man whom he was escorting. The Knight at once made him acquainted with Kohlhaas and politely urged him to sit down at the table, and since Malzahn, busied with the preparations for their departure, was obliged to keep coming and going continually, and the troopers were eating their dinner at a table on the other side of the house, the hunting-page soon found an opportunity to reveal to the horse-dealer who he was and on what a peculiar mission he had come to him.

The horse-dealer already knew the name and rank of the man who, at sight of the locket in question, had swooned in the farm-house at Dahme; and to put the finishing touch to the tumult of excitement

into which this discovery had thrown him, he needed only an insight into the secrets contained in the paper which, for many reasons, he was determined not to open out of mere curiosity. He answered that, in consideration of the ungenerous and unprincely treatment he had been forced to endure in Dresden in return for his complete willingness to make every possible sacrifice, he would keep the paper. To the hunting-page's question as to what induced him to make such an extraordinary refusal when he was offered in exchange nothing less than life and liberty, Kohlhaas answered, "Noble Sir, if your sovereign should come to me and say, 'Myself and the whole company of those who help me wield my sceptre I will destroy—destroy, you understand, which is, I admit, the dearest wish that my soul cherishes,' I should nevertheless still refuse to give him the paper which is worth more to him than life, and should say to him, 'You have the authority to send me to the scaffold, but I can cause you pain, and I intend to do so!'" And with these words Kohlhaas, with death staring him in the face, called a trooper to him and told him to take a nice bit of food which had been left in the dish. All the rest of the hour which he spent in the place he acted as though he did not see the young nobleman who was sitting at the table, and not until he climbed up on the wagon did he turn around to the hunting-page again and salute him with a parting glance.

When the Elector received this news his condition grew so much worse that for three fateful days the doctor had grave fears for his life, which was being attacked on so many sides at once. However, thanks to his naturally good constitution, after several weeks spent in pain on the sickbed, he recovered sufficiently, at least, to permit his being placed in a carriage well supplied with pillows and coverings, and brought back to Dresden to take up the affairs of government once more.

As soon as he had arrived in the city he summoned Prince Christiern of Meissen and asked him what had been done about dispatching Judge Eibenmaier, whom the government had thought of sending to Vienna as its attorney in the Kohlhaas affair, in order to lay a complaint before his Imperial Majesty concerning the violation of the public peace proclaimed by the Emperor.

The Prince answered that the Judge, in conformity with the order the Elector had left behind on his departure for Dahme, had set out for Vienna immediately after the arrival of the jurist, Zäuner, whom the Elector of Brandenburg had sent to Dresden as his attorney in order to institute legal proceedings against Squire Wenzel Tronka in regard to the black horses.

The Elector flushed and walked over to his desk, expressing surprise at this haste, since, to his certain knowledge, he had made it clear that because of the necessity for a preliminary consultation with Dr. Luther, who had procured the amnesty for Kohlhaas, he wished to postpone the final departure of Eibenmaier until he should give a more explicit and definite order. At the same time, with an expression of restrained anger, he tossed about some letters and deeds which were lying on his desk. The Prince, after a pause during which he stared in surprise at his master, answered that he was sorry if he had failed to give him satisfaction in this matter; however, he could show the decision of the Council of State enjoining him to send off the attorney at the time mentioned. He added that in the Council of State nothing at all had been said of a consultation with Dr. Luther; that earlier in the affair, it would perhaps have been expedient to pay some regard to this reverend gentleman because of his intervention in Kohlhaas' behalf; but that this was no longer the case, now that the promised amnesty had been violated before the eyes of the world and Kohlhaas had been arrested and surrendered to the Brandenburg courts to be sentenced and executed.

The Elector replied that the error committed in dispatching Eibenmaier was, in fact, not a very serious one; he expressed a wish, however, that, for the present, the latter should not act in Vienna in his official capacity as plaintiff for Saxony, but should await further orders, and begged the Prince to send off to him immediately by a courier the instructions necessary to this end.

The Prince answered that, unfortunately, this order came just one day too late, as Eibenmaier, according to a report which had just arrived that day, had already acted in his capacity as plaintiff and had proceeded with the presentation of the complaint at the State Chancery in Vienna. In answer to the Elector's dismayed question as to how all this was possible in so short a time, he added that three weeks had

passed since the departure of this man and that the instructions he had received had charged him to settle the business with all possible dispatch immediately after his arrival in Vienna. A delay, the Prince added, would have been all the more inadvisable in this case, as the Brandenburg attorney, Zäuner, was proceeding against Squire Wenzel Tronka with the most stubborn persistence and had already petitioned the court for the provisional removal of the black horses from the hands of the knacker with a view to their future restoration to good condition, and, in spite of all the arguments of the opposite side, had carried his point.

The Elector, ringing the bell, said, "No matter; it is of no importance," and turning around again toward the Prince asked indifferently how other things were going in Dresden and what had occurred during his absence. Then, incapable of hiding his inner state of mind, he saluted him with a wave of the hand and dismissed him.

That very same day the Elector sent him a written demand for all the official documents concerning Kohlhaas, under the pretext that, on account of the political importance of the affair, he wished to go over it himself. As he could not bear to think of destroying the man from whom alone he could receive information concerning the secrets contained in the paper, he composed an autograph letter to the Emperor; in this he affectionately and urgently requested that, for weighty reasons, which possibly he would explain to him in greater detail after a little while, he be allowed to withdraw for a time, until a further decision had been reached, the complaint which Eibenmaier had entered against Kohlhaas.

The Emperor, in a note drawn up by the State Chancery, replied that the change which seemed suddenly to have taken place in the Elector's mind astonished him exceedingly; that the report which had been furnished him on the part of Saxony had made the Kohlhaas affair a matter which concerned the entire Holy Roman Empire; that, in consequence, he, the Emperor, as head of the same, had felt it his duty to appear before the house of Brandenburg in this, as plaintiff in this affair, and that, therefore, since the Emperor's counsel, Franz Müller, had gone to Berlin in the capacity of attorney in order to call Kohlhaas to account for the violation of the public peace, the complaint could in

no wise be withdrawn now and the affair must take its course in conformity with the law.

This letter completely crushed the Elector and, to his utter dismay, private communications from Berlin reached him a short time after, announcing the institution of the lawsuit before the Supreme Court at Berlin and containing the remark that Kohlhaas, in spite of all the efforts of the lawyer assigned him, would in all probability end on the scaffold. The unhappy sovereign determined, therefore, to make one more effort, and in an autograph letter begged the Elector of Brandenburg to spare Kohlhaas' life. He alleged as pretext that the amnesty solemnly promised to this man did not lawfully permit the execution of a death sentence upon him; he assured the Elector that, in spite of the apparent severity with which Kohlhaas had been treated in Saxony, it had never been his intention to allow the latter to die, and described how wretched he should be if the protection which they had pretended to be willing to afford the man from Berlin should, by an unexpected turn of affairs, prove in the end to be more detrimental to him than if he had remained in Dresden and his affair had been decided according to the laws of Saxony.

The Elector of Brandenburg, to whom much of this declaration seemed ambiguous and obscure, answered that the energy with which the attorney of his Majesty the Emperor was proceeding made it absolutely out of the question for him to conform to the wish expressed by the Elector of Saxony and depart from the strict precepts of the law. He remarked that the solicitude thus displayed really went too far, inasmuch as the complaint against Kohlhaas on account of the crimes which had been pardoned in the amnesty had, as a matter of fact, not been entered at the Supreme Court at Berlin by him, the sovereign who had granted the amnesty, but by the supreme head of the Empire who was in no wise bound thereby. At the same time he represented to him how necessary it was to make a fearful example of Kohlhaas in view of the continued outrages of Nagelschmidt, who with unheard-of boldness was already extending his depredations as far as Brandenburg, and begged him, in case he refused to be influenced by these considerations, to apply to His Majesty the Emperor himself, since, if a decree was to be issued in favor of Kohlhaas, this could only be rendered after a declaration on his Majesty's part.

The Elector fell ill again with grief and vexation over all these unsuccessful attempts, and one morning, when the Chamberlain came to pay him a visit, he showed him the letters which he had written to the courts of Vienna and Berlin in the effort to prolong Kohlhaas' life and thus at least gain time in which to get possession of the paper in the latter's hands. The Chamberlain threw himself on his knees before him and begged him by all that he held sacred and dear to tell him what this paper contained. The Elector bade him bolt the doors of the room and sit down on the bed beside him, and after he had grasped his hand and, with a sigh, pressed it to his heart, he began as follows: "Your wife, as I hear, has already told you that the Elector of Brandenburg and I, on the third day of the conference that we held at Jüterbock, came upon a gipsy, and the Elector, lively as he is by nature, determined to destroy by a jest in the presence of all the people the fame of this fantastic woman, whose art had, inappropriately enough, just been the topic of conversation at dinner. He walked up to her table with his arms crossed and demanded from her a sign—one that could be put to the test that very day—to prove the truth of the fortune she was about to tell him, pretending that, even if she were the Roman Sibyl herself, he could not believe her words without it. The woman, hastily taking our measure from head to foot, said that the sign would be that, even before we should leave, the big horned roebuck which the gardener's son was raising in the park, would come to meet us in the market-place where we were standing at that moment. Now you must know that this roebuck, which was destined for the Dresden kitchen, was kept behind lock and key in an inclosure fenced in with high boards and shaded by the oak-trees of the park; and since, moreover, on account of other smaller game and birds, the park in general and also the garden leading to it, were kept carefully locked, it was absolutely impossible to understand how the animal could carry out this strange prediction and come to meet us in the square where we were standing. Nevertheless the Elector, afraid that some trick might be behind it and determined for the sake of the joke to give the lie once and for all to everything else that she might say, sent to the castle, after a short consultation with me, and ordered that the roebuck be instantly killed and prepared for the table within the next few days. Then he turned back to the woman before whom this matter had been transacted aloud, and said, 'Well, go

ahead! What have you to disclose to me of the future?' The woman, looking at his hand, said, 'Hail, my Elector and Sovereign! Your Grace will reign for a long time, the house from which you spring will long endure, and your descendants will be great and glorious and will come to exceed in power all the other princes and sovereigns of the world.'

"The Elector, after a pause in which he looked thoughtfully at the woman, said in an undertone, as he took a step toward me, that he was almost sorry now that he had sent off a messenger to ruin the prophecy; and while amid loud rejoicing the money rained down in heaps into the woman's lap from the hands of the knights who followed the Elector, the latter, after feeling in his pocket and adding a gold piece on his own account, asked if the salutation which she was about to reveal to me also had such a silvery sound as his. The woman opened a box that stood beside her and in a leisurely, precise way arranged the money in it according to kind and quantity; then she closed it again, shaded her eyes with her hand as if the sun annoyed her, and looked at me. I repeated the question I had asked her and, while she examined my hand, I added jokingly to the Elector, 'To me, so it seems, she has nothing really agreeable to announce!' At that she seized her crutches, raised herself slowly with their aid from her stool, and, pressing close to me with her hands held before her mysteriously, she whispered audibly in my ear, 'No!' 'Is that so?' I asked confused, and drew back a step before the figure, who with a look cold and lifeless as though from eyes of marble, seated herself once more on the stool behind her; 'from what quarter does danger menace my house?' The woman, taking a piece of charcoal and a paper in her hand and crossing her knees, asked whether she should write it down for me; and as I, really embarrassed, though only because under the existing circumstances there was nothing else for me to do, answered, 'Yes, do so,' she replied, 'Very well! Three things I will write down for you—the name of the last ruler of your house, the year in which he will lose his throne, and the name of the man who through the power of arms will seize it for himself.' Having done this before the eyes of all the people she arose, sealed the paper with a wafer, which she moistened in her withered mouth, and pressed upon it a leaden seal ring which she wore on her middle finger. And as I, curious

beyond all words, as you can well imagine, was about to seize the paper, she said, 'Not so, Your Highness!' and turned and raised one of her crutches; 'from that man there, the one with the plumed hat, standing on the bench at the entrance of the church behind all the people—from him you shall redeem it, if it so please you!' And with these words, before I had clearly grasped what she was saying, she left me standing in the square, speechless with astonishment, and, clapping shut the box that stood behind her and slinging it over her back, she disappeared in the crowd of people surrounding us, so that I could no longer watch what she was doing. But at this moment, to my great consolation, I must admit, there appeared the knight whom the Elector had sent to the castle, and reported, with a smile hovering on his lips, that the roebuck had been killed and dragged off to the kitchen by two hunters before his very eyes. The Elector, gaily placing his arm in mine with the intention of leading me away from the square, said, 'Well then, the prophecy was a commonplace swindle and not worth the time and money which it has cost us!' But how great was our astonishment when, even before he had finished speaking, a cry went up around the whole square, and the eyes of all turned toward a large butcher's dog trotting along from the castle yard. In the kitchen he had seized the roebuck by the neck as a fair prize, and, pursued by men-servants and maids, dropped the animal on the ground three paces in front of us. Thus indeed the woman's prophecy, which was the pledge for the truth of all that she had uttered, was fulfilled, and the roebuck, although dead to be sure, had come to the market-place to meet us. The lightning which falls from heaven on a winter's day cannot annihilate more completely than this sight did me, and my first endeavor, as soon as I had excused myself from the company which surrounded me, was to discover immediately the whereabouts of the man with the plumed hat whom the woman had pointed out to me; but none of my people, though sent out on a three days' continuous search, could give me even the remotest kind of information concerning him. And then, friend Kunz, a few weeks ago in the farm-house at Dahme, I saw the man with my own eyes!"

With these words he let go of the Chamberlain's hand and, wiping away the perspiration, sank back again on the couch. The Chamberlain, who considered it a waste of effort to attempt to contradict the Elector's

opinion of the incident or to try to make him adopt his own view of the matter, begged him by all means to try to get possession of the paper and afterward to leave the fellow to his fate. But the Elector answered that he saw absolutely no way of doing so, although the thought of having to do without it or perhaps even seeing all knowledge of it perish with this man, brought him to the verge of misery and despair. When asked by his friend whether he had made any attempts to discover the person of the gipsy-woman herself, the Elector replied that the Government Office, in consequence of an order which he had issued under a false pretext, had been searching in vain for this woman throughout the Electorate; in view of these facts, for reasons, however, which he refused to explain in detail, he doubted whether she could ever be discovered in Saxony.

Now it happened that the Chamberlain wished to go to Berlin on account of several considerable pieces of property in the Neumark of Brandenburg which his wife had fallen heir to from the estate of the Arch-Chancellor, Count Kallheim, who had died shortly after being deposed. As Sir Kunz really loved the Elector, he asked, after reflecting for a short time, whether the latter would leave the matter to his discretion; and when his master, pressing his hand affectionately to his breast, answered, "Imagine that you are myself, and secure the paper for me!" the Chamberlain turned over his affairs to a subordinate, hastened his departure by several days, left his wife behind, and set out for Berlin, accompanied only by a few servants.

Kohlhaas, as we have said, had meanwhile arrived in Berlin, and by special order of the Elector of Brandenburg had been placed in a prison for nobles, where, together with his five children, he was made as comfortable as circumstances permitted. Immediately after the appearance of the Imperial attorney from Vienna the horse-dealer was called to account before the bar of the Supreme Court for the violation of the public peace proclaimed throughout the Empire, and although in his answer he objected that, by virtue of the agreement concluded with the Elector of Saxony at Lützen, he could not be prosecuted for the armed invasion of that country and the acts of violence committed at that time, he was nevertheless told for his information that His Majesty the Emperor, whose attorney was making the complaint in this case, could not take that into account. And indeed, after the situation

had been explained to him and he had been told that, to offset this, complete satisfaction would be rendered to him in Dresden in his suit against Squire Wenzel Tronka, he very soon acquiesced in the matter.

Thus it happened that, precisely on the day of the arrival of the Chamberlain, judgment was pronounced, and Kohlhaas was condemned to lose his life by the sword, which sentence, however, in the complicated state of affairs, no one believed would be carried out, in spite of its mercy. Indeed the whole city, knowing the good will which the Elector bore Kohlhaas, confidently hoped to see it commuted by an electoral decree to a mere, though possibly long and severe, term of imprisonment.

The Chamberlain, who nevertheless realized that no time was to be lost if the commission given him by his master was to be accomplished, set about his business by giving Kohlhaas an opportunity to get a good look at him, dressed as he was in his ordinary court costume, one morning when the horse-dealer was standing at the window of his prison innocently gazing at the passers-by. As he concluded from a sudden movement of his head that he had noticed him, and with great pleasure observed particularly that he put his hand involuntarily to that part of the chest where the locket was lying, he considered that what had taken place at that moment in Kohlhaas' soul was a sufficient preparation to allow him to go a step further in the attempt to gain possession of the paper. He therefore sent for an old woman who hobbled around on crutches, selling old clothes; he had noticed her in the streets of Berlin among a crowd of other rag-pickers, and in age and costume she seemed to him to correspond fairly well to the woman described to him by the Elector of Saxony. On the supposition that Kohlhaas probably had not fixed very deeply in mind the features of the old gipsy, of whom he had had but a fleeting vision as she handed him the paper, he determined to substitute the aforesaid woman for her and, if it were practicable, to have her act the part of the gipsy before Kohlhaas. In accordance with this plan and in order to fit her for the rôle, he informed her in detail of all that had taken place in Jüterbock between the Elector and the gipsy, and, as he did not know how far the latter had gone in her declarations to Kohlhaas, he did not forget to impress particularly upon the woman the three mysterious items contained in the paper. After he had explained to her what she must disclose in disconnected and incoherent fashion, about certain measures

which had been taken to get possession, either by strategy or by force, of this paper which was of the utmost importance to the Saxon court, he charged her to demand of Kohlhaas that he should give the paper to her to keep during a few fateful days, on the pretext that it was no longer safe with him.

As was to be expected, the woman undertook the execution of this business at once on the promise of a considerable reward, a part of which the Chamberlain, at her demand, had to pay over to her in advance. As the mother of Herse, the groom who had fallen at Mühlberg, had permission from the government to visit Kohlhaas at times, and this woman had already known her for several months, she succeeded a few days later in gaining access to the horse-dealer by means of a small gratuity to the warden.

But when the woman entered his room, Kohlhaas, from a seal ring that she wore on her hand and a coral chain that hung round her neck, thought that he recognized in her the very same old gipsy-woman who had handed him the paper in Jüterbock; and since probability is not always on the side of truth, it so happened that here something had occurred which we will indeed relate, but at the same time, to those who wish to question it we must accord full liberty to do so. The Chamberlain had made the most colossal blunder, and in the aged old-clothes woman, whom he had picked up in the streets of Berlin to impersonate the gipsy, he had hit upon the very same mysterious gipsy-woman whom he wished to have impersonated. At least, while leaning on her crutches and stroking the cheeks of the children who, intimidated by her singular appearance, were pressing close to their father, the woman informed the latter that she had returned to Brandenburg from Saxony some time before, and that after an unguarded question which the chamberlain had hazarded in the streets of Berlin about the gipsy-woman who had been in Jüterbock in the spring of the previous year, she had immediately pressed forward to him, and under a false name had offered herself for the business which he wished to see done.

The horse-dealer remarked such a strange likeness between her and his dead wife Lisbeth that he might have asked the old woman whether she were his wife's grandmother; for not only did her features and her hands—with fingers still shapely and beautiful—and especially the use she made of them when speaking, remind him vividly of Lisbeth; he

even noticed on her neck a mole like one with which his wife's neck was marked. With his thoughts in a strange whirl he urged the gipsy to sit down on a chair and asked what it could possibly be that brought her to him on business for the Chamberlain.

While Kohlhaas' old dog snuffed around her knees and wagged his tail as she gently patted his head, the woman answered that she had been commissioned by the Chamberlain to inform him what the three questions of importance for the Court of Saxony were, to which the paper contained the mysterious answer; to warn him of a messenger who was then in Berlin for the purpose of gaining possession of it; and to demand the paper from him on the pretext that it was no longer safe next his heart where he was carrying it. She said that the real purpose for which she had come, however, was to tell him that the threat to get the paper away from him by strategy or by force was an absurd and empty fraud; that under the protection of the Elector of Brandenburg, in whose custody he was, he need not have the least fear for its safety; that the paper was indeed much safer with him than with her, and that he should take good care not to lose possession of it by giving it up to any one, no matter on what pretext. Nevertheless, she concluded, she considered it would be wise to use the paper for the purpose for which she had given it to him at the fair in Jüterbock, to lend a favorable ear to the offer which had been made to him on the frontier through Squire Stein, and in return for life and liberty to surrender the paper, which could be of no further use to him, to the Elector of Saxony.

Kohlhaas, who was exulting over the power which was thus afforded him to wound the heel of his enemy mortally at the very moment when it was treading him in the dust, made answer, "Not for the world, grandam, not for the world!" He pressed the old woman's hand warmly and only asked to know what sort of answers to the tremendous questions were contained in the paper. Taking on her lap the youngest child, who had crouched at her feet, the woman said, "Not for the world, Kohlhaas the horse-dealer, but for this pretty, fair-haired little lad!" and with that she laughed softly at the child, petted and kissed him while he stared at her in wide-eyed surprise, and with her withered hands gave him an apple which she had in her pocket. Kohlhaas answered, in some confusion, that the children themselves, when they were grown, would approve his conduct, and that he could do nothing

of greater benefit to them and their grandchildren than to keep the paper. He asked, furthermore, who would insure him against a new deception after the experience he had been through, and whether, in the end, he would not be making a vain sacrifice of the paper to the Elector, as had lately happened in the case of the band of troops which he had collected in Lützen. "If I've once caught a man breaking his word," said he, "I never exchange another with him; and nothing but your command, positive and unequivocal, shall separate me, good grandam, from this paper through which I have been granted satisfaction in such a wonderful fashion for all I have suffered."

The woman set the child down on the floor again and said that in many respects he was right, and that he could do or leave undone what he wished; and with that she took up her crutches again and started to go. Kohlhaas repeated his question regarding the contents of the wonderful paper; she answered hastily that, of course, he could open it, although it would be pure curiosity on his part. He wished to find out about a thousand other things yet, before she left him—who she really was, how she came by the knowledge resident within her, why she had refused to give the magic paper to the Elector for whom it had been written after all, and among so many thousand people had handed it precisely to him, Kohlhaas, who had never consulted her art.

Now it happened that, just at that moment, a noise was heard, caused by several police officials who were mounting the stairway, so that the woman, seized with sudden apprehension at being found by them in these quarters, exclaimed, "Good-by for the present, Kohlhaas, good-by for the present. When we meet again you shall not lack information concerning all these things." With that she turned toward the door, crying, "Farewell, children, farewell!" Then she kissed the little folks one after the other, and went off.

In the mean time the Elector of Saxony, abandoned to his wretched thoughts, had called in two astrologers, Oldenholm and Olearius by name, who at that time enjoyed a great reputation in Saxony, and had asked their advice concerning the mysterious paper which was of such importance to him and all his descendants. After making a profound investigation of several days' duration in the tower of the Dresden palace, the men could not agree as to whether the prophecy referred to remote centuries or, perhaps, to the present time, with a possible

reference to the King of Poland, with whom the relations were still of a very warlike nature. The disquietude, not to say the despair, in which the unhappy sovereign was plunged, was only increased by such learned disputes, and finally was so intensified as to seem to his soul wholly intolerable. In addition, just at this time the Chamberlain charged his wife that before she left for Berlin, whither she was about to follow him, she should adroitly inform the Elector, that, after the failure of an attempt, which he had made with the help of an old woman who had kept out of sight ever since, there was but slight hope of securing the paper in Kohlhaas' possession, inasmuch as the death sentence pronounced against the horse-dealer had now at last been signed by the Elector of Brandenburg after a minute examination of all the legal documents, and the day of execution already set for the Monday after Palm Sunday. At this news the Elector, his heart torn by grief and remorse, shut himself up in his room like a man in utter despair and, tired of life, refused for two days to take food; on the third day he suddenly disappeared from Dresden after sending a short communication to the Government Office with word that he was going to the Prince of Dessau's to hunt.

Where he actually did go and whether he did wend his way toward Dessau, we shall not undertake to say, as the chronicles—which we have diligently compared before reporting events—at this point contradict and offset one another in a very peculiar manner. So much is certain: the Prince of Dessau was incapable of hunting, as he was at the time lying ill in Brunswick at the residence of his uncle, Duke Henry, and it is also certain that Lady Heloise on the evening of the following day arrived in Berlin at the house of her husband, Sir Kunz, the Chamberlain, in the company of a certain Count von Königstein whom she gave out to be her cousin.

In the mean time, on the order of the Elector of Brandenburg, the death sentence was read to Kohlhaas, his chains were removed, and the papers concerning his property, to which papers his right had been denied in Dresden, were returned to him. When the councilors whom the court had dispatched to him asked what disposition he wished to have made of his property after his death, with the help of a notary he made out a will in favor of his children and appointed his honest friend, the bailiff at Kohlhaasenbrück, to be their guardian. After that, nothing could match the peace and contentment of his last days. For in

consequence of a singular decree extraordinary issued by the Elector, the prison in which he was kept was soon after thrown open and free entrance was allowed day and night to all his friends, of whom he possessed a great many in the city. He even had the further satisfaction of seeing the theologian, Jacob Freising, enter his prison as a messenger from Dr. Luther, with a letter from the latter's own hand—without doubt a very remarkable document which, however, has since been lost—and of receiving the blessed Holy Communion at the hands of this reverend gentleman in the presence of two deans of Brandenburg, who assisted him in administering it.

Amid general commotion in the city, which could not even yet be weaned from the hope of seeing him saved by an electoral rescript, there now dawned the fateful Monday after Palm Sunday, on which Kohlhaas was to make atonement to the world for the all-too-rash attempt to procure justice for himself within it. Accompanied by a strong guard and conducted by the theologian, Jacob Freising, he was just leaving the gate of his prison with his two lads in his arms—for this favor he had expressly requested at the bar of the court—when among a sorrowful throng of acquaintances, who were pressing his hands in farewell, there stepped up to him, with haggard face, the castellan of the Elector's palace, and gave him a paper which he said an old woman had put in his hands for him. The latter, looking in surprise at the man, whom he scarcely knew, opened the paper. The seal pressed upon the wafer had reminded him at once of the frequently mentioned gipsy-woman, but who can describe the astonishment which filled him when he found the following information contained in it: "Kohlhaas, the Elector of Saxony is in Berlin; he has already preceded you to the place of execution, and, if you care to know, can be recognized by a hat with blue and white plumes. The purpose for which he comes I do not need to tell you. He intends, as soon as you are buried, to have the locket dug up and the paper in it opened and read. Your Lisbeth."

Kohlhaas turned to the castellan in the utmost astonishment and asked him if he knew the marvelous woman who had given him the note. But just as the castellan started to answer "Kohlhaas, the woman—" and then hesitated strangely in the middle of his sentence, the horse-dealer was borne away by the procession which moved on again

at that moment, and could not make out what the man, who seemed to be trembling in every limb, finally uttered.

When Kohlhaas arrived at the place of execution he found there the Elector of Brandenburg and his suite, among whom was the Arch-Chancellor, Sir Heinrich von Geusau, halting on horseback, in the midst of an innumerable crowd of people. On the sovereign's right was the Imperial attorney, Franz Müller, with a copy of the death sentence in his hand; on his left was his own attorney, the jurist Anton Zäuner, with the decree of the Court Tribunal at Dresden. In the middle of the half circle formed by the people stood a herald with a bundle of articles, and the two black horses, fat and glossy, pawing the ground impatiently. For the Arch-Chancellor, Sir Heinrich, had won the suit instituted at Dresden in the name of his master without yielding a single point to Squire Wenzel Tronka. After the horses had been made honorable once more by having a banner waved over their heads, and taken from the knacker, who was feeding them, they had been fattened by the Squire's servants and then, in the market-place in Dresden, had been turned over to the attorney in the presence of a specially appointed commission. Accordingly when Kohlhaas, accompanied by his guard, advanced to the mound where the Elector was awaiting him, the latter said, "Well, Kohlhaas, this is the day on which you receive justice that is your due. Look, I here deliver to you all that was taken from you by force at the Tronka Castle which I, as your sovereign, was bound to procure for you again; here are the black horses, the neck-cloth, the gold gulden, the linen—everything down to the very amount of the bill for medical attention furnished your groom, Herse, who fell at Mühlberg. Are you satisfied with me?"

Kohlhaas set the two children whom he was carrying in his arms down on the ground beside him, and with eyes sparkling with astonished pleasure read the decree which was handed to him at a sign from the Arch-Chancellor. When he also found in it a clause condemning Squire Wenzel Tronka to a punishment of two years' imprisonment, his feelings completely overcame him and he sank down on his knees at some distance from the Elector, with his hands folded across his breast. Rising and laying his hand on the knee of the Arch-Chancellor, he joyfully assured him that his dearest wish on earth had been fulfilled; then he walked over to the horses, examined them and patted their plump

necks, and, coming back to the Chancellor, declared with a smile that he was going to present them to his two sons, Henry and Leopold!

The Chancellor, Sir Heinrich von Geusau, looking graciously down upon him from his horse, promised him in the name of the Elector that his last wish should be held sacred and asked him also to dispose of the other articles contained in the bundle, as seemed good to him. Whereupon Kohlhaas called out from the crowd Herse's old mother, whom he had caught sight of in the square, and, giving her the things, said, "Here, grandmother, these belong to you!" The indemnity for the loss of Herse was with the money in the bundle, and this he presented to her also, as a gift to provide care and comfort for her old age. The Elector cried, "Well, Kohlhaas the horse-dealer, now that satisfaction has been rendered you in such fashion, do you, for your part, prepare to give satisfaction to His Majesty the Emperor, whose attorney is standing here, for the violation of the peace he had proclaimed!" Taking off his hat and throwing it on the ground Kohlhaas said that he was ready to do so. He lifted the children once more from the ground and pressed them to his breast; then he gave them over to the bailiff of Kohlhaasenbrück, and while the latter, weeping quietly, led them away from the square, Kohlhaas advanced to the block.

He was just removing his neck-cloth and baring his chest when, throwing a hasty glance around the circle formed by the crowd, he caught sight of the familiar face of the man with blue and white plumes, who was standing quite near him between two knights whose bodies half hid him from view. With a sudden stride which surprised the guard surrounding him, Kohlhaas walked close up to the man, untying the locket from around his neck as he did so. He took out the paper, unsealed it, and read it through; then, without moving his eyes from the man with blue and white plumes, who was already beginning to indulge in sweet hopes, he stuck the paper in his mouth and swallowed it. At this sight the man with blue and white plumes was seized with convulsions and sank down unconscious. While his companions bent over him in consternation and raised him from the ground, Kohlhaas turned toward the scaffold, where his head fell under the axe of the executioner.

Here ends the story of Kohlhaas. Amid the general lamentations of the people his body was placed in a coffin, and while the bearers raised it from the ground and bore it away to the graveyard in the

suburbs for decent burial, the Elector of Brandenburg called to him the sons of the dead man and dubbed them knights, telling the Arch-Chancellor that he wished them to be educated in his school for pages.

The Elector of Saxony, shattered in body and mind, returned shortly afterward to Dresden; details of his subsequent career there must be sought in history.

Some hale and happy descendants of Kohlhaas, however, were still living in Mecklenburg in the last century.

SIR WALTER SCOTT

THE TWO DROVERS

Sir Walter Scott (1771–1832), a giant of literature, presents in the fascinating narrative that follows the story of a Scotsman who killed his close friend, an Englishman, in a passionate fit of rage flowing from injured pride. Of particular interest in the recital of the resulting trial is the instruction given to the jury, which, as do other parts of Scott's works, reflects his study of the law.

IT WAS the day after Doune Fair when my story commences. It had been a brisk market; several dealers had attended from the northern and midland counties in England, and English money had flown so merrily about as to gladden the hearts of the Highland farmers. Many large droves were about to set off for England, under the protection of their owners, or of the tops-men whom they employed in the tedious, laborious, and responsible office of driving the cattle for many hundred miles, from the market where they had been purchased, to the fields or farm-yards where they were to be fattened for the shambles.

The Highlanders, in particular, are masters of this difficult trade of driving, which seems to suit them as well as the trade of war. It affords exercise for all their habits of patient endurance and active exertion. They are required to know perfectly the drove-roads, which lie over the wildest tracks of the country, and to avoid as much as possible the highways, which distress the feet of the bullocks, and the turnpikes, which annoy the spirit of the drover; whereas on the broad green or gray track, which leads across the pathless moor, the herd not only move at ease and without taxation, but, if they mind their business, may pick up a mouthful of food by the way. At night, the drovers usually sleep along with their cattle, let the weather be what it will; and many of these hardy men do not once rest under a roof during a journey on foot from Lochaber to Lincolnshire. They are paid very highly, for the trust reposed is of the last importance, as it depends on their prudence, vigilance, and honesty, whether the cattle reach the final market in good order, and afford a profit to the grazier. But as they maintain themselves at their own expense, they are especially economical in that particular. At the period we speak of, a Highland drover was victualled

for his long and toilsome journey with a few handfuls of oatmeal, and two or three onions, renewed from time to time, and a ram's horn filled with whiskey, which he used regularly but sparingly, every night and morning. His dirk, or *skene-dhu* (i.e., black-knife), so worn as to be concealed beneath the arm, or by the folds of the plaid, was his only weapon, excepting the cudgel with which he directed the movements of the cattle. A Highlander was never so happy as on these occasions. There was a variety in the whole journey, which exercised the Celt's natural curiosity and love of motion; there were the constant change of place and scene, the petty adventures incidental to the traffic, and the intercourse with the various farmers, graziers, and traders, intermingled with occasional merrymakings, not the less acceptable to Donald that they were void of expense;—and there was the consciousness of superior skill; for the Highlander, a child amongst flocks, is a prince amongst herds, and his natural habits induce him to disdain the shepherd's slothful life, so that he feels himself nowhere more at home than when following a gallant drove of his country cattle in the character of their guardian.

Of the number who left Doune in the morning, and with the purpose we described, not a *Glunamie* of them all cocked his bonnet more briskly, or gartered his tartan hose under knee over a pair of more promising *spiogs* (legs), than did Robin Oig, that is, Young, or the Lesser, Robin. Though small of stature, as the epithet Oig implies, and not very strongly limbed, he was light and alert as one of the deer of the mountains. He had an elasticity of step, which, in the course of a long march, made many a stout fellow envy him; and the manner in which he busked his plaid and adjusted his bonnet, argued a consciousness that so smart a John Highlandman as himself would not pass unnoticed among the Lowland lasses. The ruddy cheek, red lips, and white teeth, set off a countenance which had gained by exposure to the weather a healthful and hardy rather than a rugged hue. If Robin Oig did not laugh, or even smile frequently, as indeed is not the practice among his countrymen, his bright eyes usually gleamed from under his bonnet with an expression of cheerfulness ready to be turned into mirth.

The departure of Robin Oig was an incident in the little town, in and near which he had many friends, male and female.

He was a topping person in his way, transacted considerable business on his own behalf, and was intrusted by the best farmers in the Highlands, in preference to any other drover in that district. He might have increased his business to any extent had he condescended to manage it by deputy; but except a lad or two, sister's sons of his own, Robin rejected the idea of assistance, conscious, perhaps, how much his reputation depended upon his attending in person to the practical discharge of his duty in every instance. He remained, therefore, contented with the highest premium given to persons of his description, and comforted himself with the hopes that a few journeys to England might enable him to conduct business on his own account, in a manner becoming his birth. For Robin Oig's father, Lachlan M'Combich (or *son of my friend*, his actual clan-surname being M'Gregor), had been so called by the celebrated Rob Roy, because of the particular friendship which had subsisted between the grandsire of Robin and that renowned cateran. Some people even say, that Robin Oig derived his Christian name from one as renowned in the wilds of Loch Lomond as ever was his namesake Robin Hood in the precincts of merry Sherwood. "Of such ancestry," as James Boswell says, "who would not be proud?" Robin Oig was proud accordingly; but his frequent visits to England and to the Lowlands had given him tact enough to know that pretensions, which still gave him a little right to distinction in his own lonely glen, might be both obnoxious and ridiculous if preferred elsewhere. The pride of birth, therefore, was like the miser's treasure, the secret subject of his contemplation, but never exhibited to strangers as a subject of boasting.

Many were the words of gratulation and good luck which were bestowed on Robin Oig. The judges commended his drove, especially Robin's own property, which were the best of them. Some thrust out their snuff-mulls for the parting pinch—others tendered the *doch-andorrach*, or parting cup. All cried—"Good-luck travel out with you and come home with you.—Give you luck in the Saxon market—brave notes in the *leabhardhu*" (black pocketbook), "and plenty of English gold in the *sporan*" (pouch of goat-skin).

The bonny lasses made their adieus more modestly, and more than one, it was said, would have given her best brooch to be certain that it was upon her that his eye last rested as he turned towards the road.

Robin Oig had just given the preliminary "*Hoo-hoo!*" to urge forward the loiterers of the drove, when there was a cry behind him.

"Stay, Robin—bide a blink. Here is Janet of Tomahourich—auld Janet, your father's sister."

"Plague on her, for an auld Highland witch and spaewife," said a farmer from the carse of Stirling; "she'll cast some of her cantrips on the cattle."

"She canna do that," said another sapient of the same profession—"Robin Oig is no the lad to leave any of them without tying Saint Mungo's knot on their tails, and that will put to her speed the best witch that ever flew over Dimayet upon a broomstick."

It may not be indifferent to the reader to know, that the Highland cattle are peculiarly liable to be *taken*, or infected, by spells and witchcraft; which judicious people guard against, by knitting knots of peculiar complexity on the tuft of hair which terminates the animal's tail.

But the old woman who was the object of the farmer's suspicion, seemed only busied about the drover, without paying any attention to the drove. Robin, on the contrary, appeared rather impatient of her presence.

"What auld-world fancy," he said, "has brought you so early from the ingle-side this morning, Muhme? I am sure I bid you good-even, and had your God-speed, last night."

"And left me more siller than the useless old woman will use till you come back again, bird of my bosom," said the sibyl. "But it is little that I would care for the food that nourishes me, or the fire that warms me, or for God's blessed sun itself, if aught but weel should happen to the grandson of my father. So let me walk the *deasil* round you, that you may go safe out into the foreign land, and come safe home."

Robin Oig stopped, half embarrassed, half laughing, and signing to those near that he only complied with the old woman to soothe her humour. In the mean time, she traced around him, with wavering steps, the propitiation, which some have thought has been derived from the Druidical mythology. It consists, as is well known, in the person who makes the *deasil* walking three times round the person who is the object of the ceremony, taking care to move according to the course of the

sun. At once, however, she stopped short, and exclaimed, in a voice of alarm and horror, "Grandson of my father, there is blood on your hand."

"Hush, for God's sake, aunt," said Robin Oig; "you will bring more trouble on yourself with this *taishataragh*" (second sight) "than you will be able to get out of for many a day."

The old woman only repeated with a ghastly look, "There is blood on your hand, and it is English blood. The blood of the Gael is richer and redder. Let us see—let us——"

Ere Robin Oig could prevent her, which, indeed, could only have been done by positive violence, so hasty and peremptory were her proceedings, she had drawn from his side the dirk which lodged in the folds of his plaid, and held it up, exclaiming, although the weapon gleamed clear and bright in the sun, "Blood, blood—Saxon blood again. Robin Oig M'Combich, go not this day to England!"

"Prutt trutt," answered Robin Oig, "that will never do neither—it would be next thing to running the country. For shame, Muhme—give me the dirk. You cannot tell by the color the difference betwixt the blood of a black bullock and a white one, and you speak of knowing Saxon from Gaelic blood. All men have their blood from Adam, Muhme. Give me my skene-dhu, and let me go on my road. I should have been half-way to Stirling Brig by this time.—Give me my dirk, and let me go."

"Never will I give it to you," said the old woman—"Never will I quit my hold on your plaid, unless you promise me not to wear that unhappy weapon."

The women around him urged him also, saying few of his aunt's words fell to the ground; and as the Lowland farmers continued to look moodily on the scene, Robin Oig determined to close it at any sacrifice.

"Well, then," said the young drover, giving the scabbard of the weapon to Hugh Morrison, "you Lowlanders care nothing for these freats. Keep my dirk for me. I cannot give it to you, because it was my father's; but your drove follows ours, and I am content it should be in your keeping, not in mine.—Will this do, Muhme?"

"It must," said the old woman,—“that is, if the Lowlander is mad enough to carry the knife.”

The strong westlandman laughed aloud.

“Goodwife,” said he, “I am Hugh Morrison from Glenae, come of the Manly Morrisons of auld langsyne, that never took short weapon against a man in their lives. And neither needed they. They had their broadswords, and I have this bit supple,” showing a formidable cudgel—“for dirking ower the board, I leave that to John Highlandman—Ye needna snort, none of you Highlanders, and you in especial, Robin. I’ll keep the bit knife, if you are feared for the auld spaewife’s tale, and give it back to you whenever you want it.”

Robin was not particularly pleased with some part of Hugh Morrison’s speech; but he had learned in his travels more patience than belonged to his Highland constitution originally and he accepted the service of the descendant of the Manly Morrisons without finding fault with the rather depreciating manner in which it was offered.

“If he had not had his morning in his head, and been but a Dumfriesshire hog into the boot, he would have spoken more like a gentleman. But you cannot have more of a sow than a grumph. It’s shame my father’s knife should ever slash a haggis for the like of him.”

Thus saying (but saying it in Gaelic), Robin drove on his cattle, and waved farewell to all behind him. He was in the greater haste, because he expected to join at Falkirk, a comrade and brother in profession, with whom he proposed to travel in company.

Robin Oig’s chosen friend was a young Englishman, Harry Wakefield by name, well known at every northern market, and in his way as much famed and honored as our Highland driver of bullocks. He was nearly six feet high, gallantly formed to keep the rounds at Smithfield, or maintain the ring at a wrestling match; and although he might have been overmatched perhaps, among the regular professors of the Fancy, yet, as a yokel, or rustic, or a chance customer, he was able to give a bellyful to any amateur of the pugilistic art. Doncaster races saw him in his glory, betting his guinea, and generally successfully; nor was there a main fought in Yorkshire, the feeders being persons of celebrity, at which he was not to be seen if business permitted. But though a *sprack* lad, and fond of pleasure and its haunts, Harry Wakefield

was steady, and not the cautious Robin Oig M'Combich himself was more attentive to the main chance. His holidays were holidays indeed; but his days of work were dedicated to steady and persevering labor. In countenance and temper, Wakefield was the model of old England's merry yeomen, whose clothyard shafts, in so many hundred battles, asserted her superiority over the nations, and whose good sabres, in our own time, are her cheapest and most assured defence. His mirth was readily excited; for, strong in limb and constitution, and fortunate in circumstances, he was disposed to be pleased with everything about him; and such difficulties as he might occasionally encounter, were, to a man of his energy, rather matter of amusement than serious annoyance. With all the merits of a sanguine temper, our young English drover was not without his defects. He was irascible, sometimes to the verge of being quarrelsome; and perhaps not the less inclined to bring his disputes to a pugilistic decision, because he found few antagonists able to stand up to him in the boxing ring.

It is difficult to say how Harry Wakefield and Robin Oig first became intimates; but it is certain a close acquaintance had taken place betwixt them, although they had apparently few common subjects of conversation or of interest, so soon as their talk ceased to be of bullocks. Robin Oig, indeed, spoke the English language rather imperfectly upon any other topics but stots and kyloes, and Harry Wakefield could never bring his broad Yorkshire tongue to utter a single word of Gaelic. It was in vain Robin spent a whole morning, during a walk over Minch Moor, in attempting to teach his companion to utter, with true precision, the shibboleth *Llhu*, which is the Gaelic for a calf. From Traquair to Murder-cairn, the hill rang with the discordant attempts of the Saxon upon the unmanageable monosyllable, and the heartfelt laugh which followed at every failure. They had, however, better modes of awakening the echoes; for Wakefield could sing many a ditty to the praise of Moll, Susan, and Cicely, and Robin Oig had a particular gift at whistling interminable pibrochs through all their involutions, and what was more agreeable to his companion's southern ear, knew many of the northern airs, both lively and pathetic, to which Wakefield learned to pipe a bass. Thus, though Robin could hardly have comprehended his companion's stories about horse-racing, and cock-fighting, or fox-hunting, and although his own legends of clan-fights and *creaghs*, varied with talk of Highland goblins and fairy folk, would

have been caviare to his companion, they contrived nevertheless to find a degree of pleasure in each other's company, which had for three years back induced them to join company and travel together, when the direction of their journey permitted. Each, indeed, found his advantage in this companionship; for where could the Englishman have found a guide through the Western Highlands like Robin Oig M'Combich? And when they were on what Harry called the *right* side of the border, his patronage, which was extensive, and his purse, which was heavy, were at all times at the service of his Highland friend, and on many occasions his liberality did him genuine yeoman's service.

II

*Were ever two such loving friends!—
How could they disagree?
Oh, thus it was, he loved him dear,
And thought how to requite him,
And having no friend left but he,
He did resolve to fight him.*

DUKE UPON DUKE

The pair of friends had traversed with their usual cordiality the grassy wilds of Liddesdale, and crossed the opposite part of Cumberland, emphatically called The Waste. In these solitary regions, the cattle under the charge of our drovers derived their subsistence chiefly by picking their food as they went along the drove road, or sometimes by the tempting opportunity of a *start and owerloup*, or invasion of the neighboring pasture, where an occasion presented itself. But now the scene changed before them; they were descending towards a fertile and enclosed country, where no such liberties could be taken with impunity, or without a previous arrangement and bargain with the possessors of the ground. This was more especially the case, as a great northern fair was upon the eve of taking place, where both the Scotch and English drover expected to dispose of a part of their cattle, which it was desirable to produce in the market rested and in good order. Fields were therefore difficult to be obtained, and only upon high terms. This necessity occasioned a temporary separation betwixt the two friends, who went to bargain, each as he could, for the separate accommodation of his herd. Unhappily it chanced that both of them,

unknown to each other, thought of bargaining for the ground they wanted on the property of a country gentleman of some fortune, whose estate lay in the neighborhood. The English drover applied to the bailiff on the property, who was known to him. It chanced that the Cumbrian Squire, who had entertained some suspicions of his manager's honesty, was taking occasional measures to ascertain how far they were well founded, and had desired that any inquiries about his enclosures, with a view to occupy them for a temporary purpose, should be referred to himself. As, however, Mr. Ireby had gone the day before upon a journey of some miles' distance to the northward, the bailiff chose to consider the check upon his full powers as for the time removed, and concluded that he should best consult his master's interest, and perhaps his own, in making an agreement with Harry Wakefield. Meanwhile, ignorant of what his comrade was doing, Robin Oig, on his side, chanced to be overtaken by a good-looking smart little man upon a pony, most knowingly bogged and cropped, as was then the fashion, the rider wearing tight leather breeches, and long-necked bright spurs. This cavalier asked one or two pertinent questions about markets and the price of stock. So Robin, seeing him a well-judging civil gentleman, took the freedom to ask him whether he could let him know if there was any grass land to be let in that neighborhood, for the temporary accommodation of his drove. He could not have put the question to more willing ears. The gentleman of the buckskin was the proprietor, with whose bailiff Harry Wakefield had dealt, or was in the act of dealing.

"Thou art in good luck, my canny Scot," said Mr. Ireby, "to have spoken to me, for I see thy cattle have done their day's work, and I have at my disposal the only field within three miles that is to be let in these parts."

"The drove can pe gang two, three, four miles very pratty weel indeed," said the cautious Highlander; "put what would his honor be axing for the peasts pe the head, if she was to tak the park for two or three days?"

"We don't differ, Sawney, if you let me have six stots for winterers in the way of reason."

"And which peasts wad your honor pe for having?"

“Why—let me see—the two black—the dun one—yon doddy—him with the twisted horn—the brocket——How much by the head?”

“Ah,” said Robin, “your honor is a shudge—a real shudge—I couldna have set off the pest six peasts better mysell, me that ken them as if they were my pairns, puir things.”

“Well, how much per head, Sawney?” continued Mr. Ireby.

“It was high markets at Doune and Falkirk,” answered Robin.

And thus the conversation proceeded, until they had agreed on the *prix juste* for the bullocks, the Squire throwing in the temporary accommodation of the enclosure for the cattle into the boot, and Robin making, as he thought, a very good bargain, provided the grass was but tolerable. The Squire walked his pony alongside of the drove, partly to show him the way, and see him put into possession of the field, and partly to learn the latest news of the northern markets.

They arrived at the field, and the pasture seemed excellent. But what was their surprise when they saw the bailiff quietly inducting the cattle of Harry Wakefield into the grassy Goshen which had just been assigned to those of Robin Oig M’Combich by the proprietor himself! Squire Ireby set spurs to his horse, dashed up to his servant, and learning what had passed between the parties, briefly informed the English drover that his bailiff had let the ground without his authority, and that he might seek grass for his cattle wherever he would, since he was to get none there. At the same time he rebuked his servant severely for having transgressed his commands, and ordered him instantly to assist in ejecting the hungry and weary cattle of Harry Wakefield, which were just beginning to enjoy a meal of unusual plenty, and to introduce those of his comrade, whom the English drover now began to consider as a rival.

The feelings which arose in Wakefield’s mind would have induced him to resist Mr. Ireby’s decision; but every Englishman has a tolerably accurate sense of law and justice, and John Fleecebumpkin, the bailiff, having acknowledged that he had exceeded his commission, Wakefield saw nothing else for it than to collect his hungry and disappointed charges, and drive them on to seek quarters elsewhere. Robin Oig saw what had happened with regret, and hastened to offer his English friend to share with him the disputed possession. But Wakefield’s pride

was severely hurt, and he answered disdainfully, "Take it all, man—take it all—never make two bites of a cherry—thou canst talk over the gentry, and blear a plain man's eye—Out upon you, man—I would not kiss any man's dirty latches for leave to bake in his oven."

Robin Oig, sorry but not surprised at his comrade's displeasure, hastened to entreat his friend to wait but an hour till he had gone to the Squire's house to receive payment for the cattle he had sold, and he would come back and help him to drive the cattle into some convenient place of rest, and explain to him the whole mistake they had both of them fallen into. But the Englishman continued indignant: "Thou hast been selling, hast thou? Ay, ay—thou is a cunning lad for kenning the hours of bargaining. Go to the devil with thyself, for I will ne'er see thy fause loon's visage again—thou should be ashamed to look me in the face."

"I am ashamed to look no man in the face," said Robin Oig, something moved; "and, moreover, I will look you in the face this blessed day, if you will bide at the clachan down yonder."

"Mayhap you had as well keep away," said his comrade; and, turning his back on his former friend, he collected his unwilling associates, assisted by the bailiff, who took some real and affected interest in seeing Wakefield accommodated.

After spending some time in negotiating with more than one of the neighboring farmers, who could not, or would not, afford the accommodation desired, Harry Wakefield at last, and in his necessity, accomplished his point by means of the landlord of the alehouse at which Robin Oig and he had agreed to pass the night, when they first separated from each other. Mine host was content to let him turn his cattle on a piece of barren moor, at a price little less than the bailiff had asked for the disputed enclosure; and the wretchedness of the pasture, as well as the price paid for it, were set down as exaggerations of the breach of faith and friendship of his Scottish crony. This turn of Wakefield's passions was encouraged by the bailiff (who had his own reasons for being offended against poor Robin, as having been the unwitting cause of his falling into disgrace with his master), as well as by the innkeeper, and two or three chance guests, who stimulated the drover in his resentment against his quondam associate—some from the ancient grudge against the Scots, which, when it exists anywhere, is to be

found lurking in the Border counties, and some from the general love of mischief, which characterizes mankind in all ranks of life, to the honor of Adam's children be it spoken. Good John Barleycorn also, who always heightens and exaggerates the prevailing passions, be they angry or kindly, was not wanting in his offices on this occasion; and confusion to false friends and hard masters was pledged in more than one tankard.

In the meanwhile Mr. Ireby found some amusement in detaining the northern drover at his ancient hall. He caused a cold round of beef to be placed before the Scot in the butler's pantry, together with a foaming tankard of home-brewed, and took pleasure in seeing the hearty appetite with which these unwonted edibles were discussed by Robin Oig M'Combich. The Squire himself, lighting his pipe, compounded between his patrician dignity and his love of agricultural gossip, by walking up and down while he conversed with his guest.

"I passed another drove," said the Squire, "with one of your countrymen behind them—they were something less beasts than your drove, doddies most of them—a big man was with them—none of your kilts though, but a decent pair of breeches—D'ye know who he may be?"

"Hout ay—that might, could, and would be Hughie Morrison—I didna think he could hae peen sae weel up. He has made a day on us; but his Argyleshires will have wearied shanks. How far was he behind?"

"I think about six or seven miles," answered the Squire, "for I passed them at the Christenbury Crag, and I overtook you at the Hollan Bush. If his beasts be leg-weary, he may be selling bargains."

"Na, na, Hughie Morrison is no the man for pargains—ye maun come to some Highland body like Robin Oig hersell for the like of these—put I maun pe wishing you goot-night, and twenty of them let alane ane, and I maun down to the clachan to see if the lad Harry Waakfelt is out of his humdudgeons yet."

The party at the alehouse were still in full talk, and the treachery of Robin Oig still the theme of conversation, when the supposed culprit entered the apartment. His arrival, as usually happens in such a case, put an instant stop to the discussion of which he had furnished the subject, and he was received by the company assembled with that chilling silence, which, more than a thousand exclamations, tells an in-

truder that he is unwelcome. Surprised and offended, but not appalled by the reception which he experienced, Robin entered with an undaunted and even a haughty air, attempted no greeting, as he saw he was received with none, and placed himself by the side of the fire, a little apart from a table at which Harry Wakefield, the bailiff, and two or three other persons, were seated. The ample Cumbrian kitchen would have afforded plenty of room even for a larger separation.

Robin, thus, seated, proceeded to light his pipe, and call for a pint of twopenny.

"We have no twopence ale," answered Robert Heskett, the landlord; "but as thou find'st thy own tobacco, it's like thou may'st find thy own liquor too—it's the wont of thy country, I wot."

"Shame, goodman," said the landlady, a blithe bustling housewife, hasting herself to supply the guest with liquor—"Thou knowest well enow what the strange man wants, and it's thy trade to be civil, man. Thou shouldst know, that if the Scot likes a small pot, he pays a sure penny."

Without taking any notice of this nuptial dialogue, the Highlander took the flagon in his hand, and addressing the company generally, drank the interesting toast of "Good Markets," to the party assembled.

"The better, that the wind blew fewer dealers from the north," said one of the farmers, "and fewer Highland runts to eat up the English meadows."

"Saul of my pody, put you are wrang there, my friend," answered Robin, with composure; "it is your fat Englishmen that eat up our Scots cattle, puir things."

"I wish there was a summat to eat up their drovers," said another; "a plain Englishman canna make bread within a kenning of them."

"Or an honest servant keep his master's favor, but they will come sliding in between him and the sunshine," said the bailiff.

"If these pe jokes," said Oig, with the same composure, "there is ower mony jokes upon one man."

"It is no joke, but downright earnest," said the bailiff. "Harkye, Mr. Robin Ogg, or whatever is your name, it's right we should tell you that we are all of one opinion, and that is, that you, Mr. Robin Ogg,

have behaved to our friend, Mr. Harry Wakefield here, like a raff and a blackguard."

"Nae doubt, nae doubt," answered Robin with great composure; "and you are a set of very pretty judges, for whose prains or pehavior I wad not give a pinch of sneeshing. If Mr. Harry Waakfelt kens where he is wranged, he kens where he may be righted."

"He speaks truth," said Wakefield, who had listened to what passed, divided between the offence which he had taken at Robin's late behavior, and the revival of his habitual feelings of regard.

He now arose, and went towards Robin, who got up from his seat as he approached, and held out his hand.

"That's right, Harry—go it—serve him out," resounded on all sides—"tip him the nailer—show him the mill."

"Hold your peace all of you, and be ——," said Wakefield; and then addressing his comrade, he took him by the extended hand, with something alike of respect and defiance. "Robin," he said, "thou hast used me ill enough this day; but if you mean, like a frank fellow, to shake hands, and make a tussel for love on the sod, why I'll forgie thee, man, and we shall be better friends than ever."

"And would it not pe petter to pe cood friends without more of the matter?" said Robin; "we will be much petter friendships with our panes hale than proken."

Harry Wakefield dropped the hand of his friend, or rather threw it from him.

"I did not think I had been keeping company for three years with a coward."

"Coward pelongs to none of my name," said Robin, whose eyes began to kindle, but keeping the command of his temper. "It was no coward's legs or hands, Harry Waakfelt, that drew you out of the fords of Frew, when you was drifting ower the plack rock, and every eel in the river expected his share of you."

"And that is true enough, too," said the Englishman, struck by the appeal.

"Adzooks!" exclaimed the bailiff—"sure Harry Wakefield, the na-tiest lad at Whitson Tryste, Wooler Fair, Carlisle Sands, or Stagshaw

Bank, is not going to show white feather? Ah, this comes of living so long with kilts and bonnets—men forget the use of their daddles.”

“I may teach you, Master Fleecebumpkin, that I have not lost the use of mine,” said Wakefield, and then went on. “This will never do, Robin. We must have a turn-up, or we shall be the talk of the countryside. I’ll be d——d if I hurt thee—I’ll put on the gloves gin thou like. Come, stand forward like a man.

“To pe peaten like a dog,” said Robin; “is there any reason in that? If you think I have done you wrong, I’ll go before your shudge, though I neither know his law nor his language.”

A general cry of “No, no—no law, no lawyer! a bellyful and be friends,” was echoed by the bystanders.

“But,” continued Robin, “if I am to fight, I’ve no skill to fight like a jackanapes, with hands and nails.”

“How would you fight then?” said his antagonist; “though I am thinking it would be hard to bring you to the scratch any how.”

“I would fight with broadswords, and sink points on the first plood drawn—like a gentlemans.”

A loud shout of laughter followed the proposal, which indeed had rather escaped from poor Robin’s swelling heart, than been the dictate of his sober judgment.

“Gentleman, quotha!” was echoed on all sides, with a shout of unextinguishable laughter; “a very pretty gentleman, God wot—Canst get two swords for the gentlemen to fight with, Ralph Heskett?”

“No, but I can send to the armory at Carlisle, and lend them two forks, to be making shift with in the mean time.”

“Tush, man,” said another, “the bonny Scots come into the world with the blue bonnet on their heads, and dirk and pistol at their belt.”

“Best send post,” said Mr. Fleecebumpkin, “to the Squire of Corby Castle, to come and stand second to the *gentleman*.”

In the midst of this torrent of general ridicule, the Highlander instinctively gripped beneath the folds of his plaid.

“But it’s better not,” he said in his own language. “A hundred curses on the swine-eaters, who know neither decency nor civility!”

"Make room, the pack of you," he said, advancing to the door.

But his former friend interposed his sturdy bulk, and opposed his leaving the house; and when Robin Oig attempted to make his way by force, he hit him down on the floor, with as much ease as a boy bowls down a nine-pin.

"A ring, a ring!" was now shouted until the dark rafters, and the hams that hung on them, trembled again, and the very platters on the *bink* clattered against each other. "Well done, Harry,"—"Give it him home, Harry,"—"take care of him now,—he sees his own blood!"

Such were the exclamations, while the Highlander, starting from the ground, all his coldness and caution lost in frantic rage, sprung at his antagonist with the fury, the activity, and the vindictive purpose, of an incensed tiger-cat. But when could rage encounter science and temper? Robin Oig again went down in the unequal contest; and as the blow was a severe one, he lay motionless on the floor of the kitchen. The landlady ran to offer some aid, but Mr. Fleecebumpkin would not permit her to approach.

"Let him alone," he said, "he will come to within time, and come up to the scratch again. He has not got half his broth yet."

"He has got all I mean to give him, though," said his antagonist, whose heart began to relent towards his old associate; "and I would rather by half give the rest to yourself, Mr. Fleecebumpkin, for you pretend to know a thing or two, and Robin had not art enough even to peel before setting to, but fought with his plaid dangling about him—Stand up, Robin, my man! all friends now; and let me hear the man that will speak a word against you or your country for your sake."

Robin Oig was still under the dominion of his passion, and eager to renew the onset; but being withheld on the one side by the peacemaking Dame Heskett, and on the other, aware that Wakefield no longer meant to renew the combat, his fury sunk into gloomy sullenness.

"Come, come, never grudge so much at it, man," said the brave-spirited Englishman, with the placability of his country; "shake hands, and we will be better friends than ever."

"Friends!" exclaimed Robin Oig, with strong emphasis—"friends!—Never. Look to yourself, Harry Waakfelt."

"Then the curse of Cromwell on your proud Scots stomach, as the man says in the play, and you may do your worst, and be d——d! for one man can say nothing more to another after a tussle, than that he is sorry for it."

On these terms the friends parted; Robin Oig drew out, in silence, a piece of money, threw it on the table, and then left the alehouse. But turning at the door, he shook his hand at Wakefield, pointing with his forefinger upwards, in a manner which might imply either a threat or a caution. He then disappeared in the moonlight.

Some words passed after his departure, between the bailiff, who piqued himself on being a little of a bully, and Harry Wakefield, who, with generous inconsistency, was now not indisposed to begin a new combat in defence of Robin Oig's reputation, "although he could not use his daddles like an Englishman, as it did not come natural to him." But Dame Heskett prevented his second quarrel from coming to a head by her peremptory interference. "There should be no more fighting in this house," she said; "there had been too much already.—And you, Mr. Wakefield, may live to learn," she added, "what it is to make a deadly enemy out of a good friend."

"Pshaw, dame! Robin Oig is an honest fellow, and will never keep malice."

"Do not trust to that—you do not know the dour temper of the Scots, though you have dealt with them so often. I have a right to know them, my mother being a Scot."

"And so is well seen on her daughter," said Ralph Heskett.

This nuptial sarcasm gave the discourse another turn; fresh customers entered the tap-room or kitchen, and others left it. The conversation turned on the expected markets, and the report of prices from different parts both of Scotland and England—treaties were commenced, and Harry Wakefield was lucky enough to find a chap for a part of his drove, and at a very considerable profit; an event of consequence more than sufficient to blot out all remembrances of the unpleasant scuffle in the earlier part of the day. But there remained one party from whose mind that recollection could not have been wiped away by the possession of every head of cattle betwixt Esk and Eden.

This was Robin Oig M'Combich—"That I should have had no weapon," he said, "and for the first time in my life!—Blighted be the tongue that bids the Highlander part with the dirk—the dirk—ha! the English blood!—My Muhme's word—when did her word fall to the ground?"

The recollection of the fatal prophecy confirmed the deadly intention which instantly sprung up in his mind.

"Ha! Morrison cannot be many miles behind; and if it were a hundred, what then?"

His impetuous spirit had now a fixed purpose and motive of action, and he turned the light foot of his country towards the wilds, through which he knew, by Mr. Ireby's report, that Morrison was advancing. His mind was wholly engrossed by the sense of injury—injury sustained from a friend; and by the desire of vengeance on one whom he now accounted his most bitter enemy. The treasured ideas of self-importance and self-opinion—of ideal birth and quality, had become more precious to him, like the hoard to the miser, because he could only enjoy them in secret. But that hoard was pillaged, the idols which he had secretly worshipped had been desecrated and profaned. Insulted, abused, and beaten, he was no longer worthy, in his own opinion, of the name he bore, or the lineage which he belonged to—nothing was left to him—nothing but revenge; and, as the reflection added a galling spur to every step, he determined it should be as sudden and signal as the offence.

When Robin Oig left the door of the alehouse, seven or eight English miles at least lay betwixt Morrison and him. The advance of the former was slow, limited by the sluggish pace of his cattle; the last left behind him stubble-field and hedgerow, crag and dark heath, all glittering with frost-rime in the broad November moonlight, at the rate of six miles an hour. And now the distant lowing of Morrison's cattle is heard; and now they are seen creeping like moles in size and slowness of motion on the broad face of the moor; and now he meets them—passes them, and stops their conductor.

"May good betide us," said the Southlander—"Is this you, Robin M'Combich, or your wraith?"

"It is Robin Oig M'Combich," answered the Highlander, "and it is not.—But never mind that, put pe giving me the skene-dhu."

"What! you are for back to the Highlands—The devil!—have you selt all off before the fair? This beats all for quick markets!"

"I have not sold—I am not going north—May pe I will never go north again.—Give me pack my dirk, Hugh Morrison, or there will pe words petween us."

"Indeed, Robin, I'll be better advised before I gie it back to you—it is a wanchancy weapon in a Highlandman's hand, and I am thinking you will be about some barn's-breaking."

"Prudd, trudd! let me have my weapon," said Robin Oig, impatiently.

"Hooly and fairly," said his well-meaning friend. "I'll tell you what will do better than these dirking doings—Ye ken Highlander, and Lowlander, and Border-men, are a' ae man's bairns when you are over the Scots dyke. See, the Eskdale callants, and fighting Charlie of Liddesdale, and the Lockerby lads, and the four Dandies of Lustruther, and a wheen mair gray plaids, are coming up behind, and if you are wranged, there is the hand of a Manly Morrison, we'll see you righted, if Carlisle and Stanwix baith took up the feud."

"To tell you the truth," said Robin Oig, desirous of eluding the suspicions of his friend, "I have enlisted with a party of the Black Watch, and must march off to-morrow morning."

"Enlisted! Were you mad or drunk?—You must buy yourself off—I can lend you twenty notes, and twenty to that, if the drove sell."

"I thank you—thank ye, Hughie; but I go with good will the gate that I am going,—so the dirk—the dirk!"

"There it is for you then, since less wunna serve. But think on what I was saying.—Waes me, it will be sair news in the Braes of Balquidder, that Robin Oig M'Combich should have run an ill gate, and ta'en on."

"Ill news in Balquidder, indeed!" echoed poor Robin. "But Cot speed you, Hughie, and send you good marcats. Ye winna meet with Robin Oig again, either at tryste or fair."

So saying, he shook hastily the hand of his acquaintance, and set out in the direction from which he had advanced, with the spirit of his former pace.

"There is something wrang with the lad," muttered the Morrison to himself; "but we'll maybe see better into it the morn's morning."

But long ere the morning dawned, the catastrophe of our tale had taken place. It was two or three hours after the affray had happened, and it was totally forgotten by almost every one, when Robin Oig returned to Heskett's inn. The place was filled at once by various sorts of men, and with noises corresponding to their character. There were the grave low sounds of men engaged in busy traffic, with the laugh, the song, and the riotous jest of those who had nothing to do but to enjoy themselves. Among the last was Harry Wakefield, who, amidst a grinning group of smock-frocks, hobnailed shoes, and jolly English physiognomies, was trolling forth the old ditty.

*"What though my name be Roger,
Who drives the plough and cart"—*

when he was interrupted by a well-known voice saying in a high and stern tone, marked by the sharp Highland accent, "Harry Waakfelt—if you be a man, stand up!"

"What is the matter?—what is it?" the guests demanded of each other.

"It is only a d——d Scotsman," said Fleecebumpkin, who was by this time very drunk, "whom Harry Wakefield helped to his broth the day, who is now come to have *his cauld kail* het again."

"Harry Waakfelt," repeated the same ominous summons, "stand up, if you be a man!"

There is something in the tone of deep and concentrated passion, which attracts attention and imposes awe, even by the very sound. The guests shrunk back on every side, and gazed at the Highlander as he stood in the middle of them, his brows bent and his features rigid with resolution.

"I will stand up with all my heart, Robin, my boy, but it shall be to shake hands with you, and drink down all unkindness. It is not the fault of your heart, man, that you don't know how to clench your hands."

By this time he stood opposite to his antagonist; his open and unsuspecting look strangely contrasted with the stern purpose, which gleamed wild, dark, and vindictive in the eyes of the Highlander.

"'T is not thy fault, man, that, not having the luck to be an Englishman, thou canst not fight more than a school-girl."

"I *can* fight," answered Robin Oig sternly, but calmly, "and you shall know it. You, Harry Waakfelt, showed me to-day how the Saxon churls fight—I show you now how the Highland Dunnie-wassel fights."

He seconded the word with the action, and plunged the dagger, which he suddenly displayed, into the broad breast of the English yeoman, with such fatal certainty and force, that the hilt made a hollow sound against the breast-bone, and the double-edged point split the very heart of his victim. Harry Wakefield fell and expired with a single groan. His assassin next seized the bailiff by the collar, and offered the bloody poniard to his throat, whilst dread and surprise rendered the man incapable of defence.

"It were very just to lay you beside him," he said, "but the blood of a base pick-thank shall never mix on my father's dirk with that of a brave man."

As he spoke, he cast the man from him with so much force that he fell on the floor, while Robin, with his other hand, threw the fatal weapon into the blazing turf-fire.

"There," he said, "take me who likes—and let fire cleanse blood if it can."

The pause of astonishment still continuing, Robin Oig asked for a peace-officer, and a constable having stepped out, he surrendered himself to his custody.

"A bloody night's work you have made of it," said the constable.

"Your own fault," said the Highlander. "Had you kept his hands off me twa hours since he would have been now as well and merry as he was twa minutes since."

"It must be sorely answered," said the peace-officer.

"Never you mind that—death pays all debts; it will pay that too."

The horror of the bystanders began now to give way to indignation; and the sight of a favorite companion murdered in the midst of them, the provocation being, in their opinion, so utterly inadequate to the excess of vengeance, might have induced them to kill the perpetrator of the deed even upon the very spot. The constable, however, did his duty on this occasion, and, with the assistance of some of the more reasonable persons present, procured horses to guard the prisoner to Carlisle, to abide his doom at the next assizes. While the escort was preparing, the prisoner neither expressed the least interest nor attempted the slightest reply. Only before he was carried from the fatal apartment, he desired to look at the dead body, which, raised from the floor, had been deposited upon the large table (at the head of which Harry Wakefield had presided but a few minutes before, full of life, vigor and animation) until the surgeons should examine the mortal wound. The face of the corpse was decently covered with a napkin. To the surprise and horror of the bystanders, which displayed itself in a general *Ah!* drawn through clenched teeth and half-shut lips, Robin Oig removed the cloth, and gazed with a mournful but steady eye on the lifeless visage, which had been so lately animated, that the smile of good-humoured confidence in his own strength, of conciliation at once, and contempt towards his enemy, still curled his lip. While those present expected that the wound, which had so lately flooded the apartment with gore, would send forth fresh streams at the touch of the homicide, Robin Oig replaced the covering, with the brief exclamation, "He was a pretty man!"

My story is nearly ended. The unfortunate Highlander stood his trial at Carlisle. I was myself present, and as a young Scottish lawyer, or barrister at least, and reputed a man of some quality, the politeness of the Sheriff of Cumberland offered me a place on the bench. The facts of the case were proved in the manner I have related them; and whatever might be at first the prejudice of the audience against a crime so un-English as that of assassination from revenge, yet when the rooted national prejudices of the prisoner had been explained, which made him consider himself as stained with indelible dishonor, when subjected to personal violence; when his previous patience, moderation, and endurance, were considered, the generosity of the English audience was inclined to regard his crime as the wayward aberration of a false idea

of honor rather than as flowing from a heart naturally savage, or perverted by habitual vice. I shall never forget the charge of the venerable Judge to the jury, although not at that time liable to be much affected either by that which was eloquent or pathetic.

“We have had,” he said, “in the previous part of our duty” (alluding to some former trials), “to discuss crimes which infer disgust and abhorrence, while they call down the well-merited vengeance of the law. It is now our still more melancholy task to apply its salutary though severe enactments to a case of a very singular character, in which the crime (for a crime it is, and a deep one) arose less out of the malevolence of the heart, than the error of the understanding—less from any idea of committing wrong, than from an unhappily perverted notion of that which is right. Here we have two men, highly esteemed, it has been stated, in their rank of life, and attached, it seems, to each other as friends, one of whose lives has been already sacrificed to a punctilio, and the other is about to prove the vengeance of the offended laws; and yet both may claim our commiseration at least, as men acting in ignorance of each other’s national prejudices, and unhappily misguided rather than voluntarily erring from the path of right conduct.

“In the original cause of the misunderstanding, we must in justice give the right to the prisoner at the bar. He had acquired possession of the enclosure, which was the object of competition, by a legal contract with the proprietor, Mr. Ireby; and yet, when accosted with reproaches undeserved in themselves, and galling doubtless to a temper at least sufficiently susceptible of passion, he offered notwithstanding to yield up half his acquisition, for the sake of peace and good neighborhood, and his amicable proposal was rejected with scorn. Then follows the scene at Mr Heskett the publican’s, and you will observe how the stranger was treated by the deceased, and, I am sorry to observe, by those around, who seem to have urged him in a manner which was aggravating in the highest degree. While he asked for peace and for composition, and offered submission to a magistrate, or to a mutual arbiter, the prisoner was insulted by a whole company, who seem on this occasion to have forgotten the national maxim of ‘fair play’; and while attempting to escape from the place in peace, he was intercepted, struck down, and beaten to the effusion of his blood.

“Gentlemen of the Jury, it was with some impatience that I heard my learned brother, who opened the case for the crown, give an unfavorable turn to the prisoner’s conduct on this occasion. He said the prisoner was afraid to encounter his antagonist in fair fight, or to submit to the laws of the ring; and that, therefore, like a cowardly Italian, he had recourse to his fatal stiletto, to murder the man whom he dared not meet in manly encounter. I observed the prisoner shrink from this part of the accusation with the abhorrence natural to a brave man; and as I would wish to make my words impressive, when I point his real crime, I must secure his opinion of my impartiality, by rebutting everything that seems to me a false accusation. There can be no doubt that the prisoner is a man of resolution—too much resolution—I wish to Heaven that he had less, or rather that he had had a better education to regulate it.

“Gentlemen, as to the laws my brother talks of, they may be known in the Bull-ring, or the Bear-garden, or the Cockpit, but they are not known here. Or, if they should be so far admitted as furnishing a species of proof that no malice was intended in this sort of combat, from which fatal accidents do sometimes arise, it can only be so admitted when both parties are *in pari casu*, equally acquainted with, and equally willing to refer themselves to, that species of arbitrament. But will it be contended that a man of superior rank and education is to be subjected, or is obliged to subject himself, to this coarse and brutal strife, perhaps in opposition to a younger, stronger, or more skilful opponent? Certainly even the pugilistic code, if founded upon the fair play of Merry Old England, as my brother alleges it to be, can contain nothing so preposterous. And, gentlemen of the jury, if the laws would support an English gentleman, wearing, we will suppose, his sword, in defending himself by force against a violent personal aggression of the nature offered to this prisoner, they will not less protect a foreigner and a stranger, involved in the same unpleasing circumstances. If, therefore, gentlemen of the jury, when thus pressed by a *vis major*, the object of obloquy to a whole company, and of direct violence from one at least, and, as he might reasonably apprehend, from more, the panel had produced the weapon which his countrymen, as we are informed generally carry about their persons, and the same unhappy circumstances had ensued which you have heard detailed in evidence, I could not in my conscience have asked from you a verdict of murder. The pris-

oner's personal defence might, indeed, even in that case, have gone more or less beyond the *Moderamen inculpatæ tutelæ*, spoken of by lawyers, but the punishment incurred would have been that of manslaughter, not of murder. I beg leave to add, that I should have thought this milder species of charge was demanded in the case supposed, notwithstanding the statute of James I. cap. 8, which takes the case of slaughter by stabbing with a short weapon, even without malice prepense, out of the benefit of clergy. For this statute of stabbing, as it is termed, arose out of a temporary cause; and as the real guilt is the same, whether the slaughter be committed by the dagger, or by sword or pistol, the benignity of the modern law places them all on the same, or nearly the same footing.

"But, gentlemen of the jury, the pinch of the case lies in the interval of two hours interposed betwixt the reception of the injury and the fatal retaliation. In the heat of affray and *chaude melee*, law, compassionating the infirmities of humanity, makes allowance for the passions which rule such a stormy moment, . . . for the sense of present pain, for the apprehension of further injury, for the difficulty of ascertaining with due accuracy the precise degree of violence which is necessary to protect the person of the individual, without annoying or injuring the assailant more than is absolutely requisite. But the time necessary to walk twelve miles, however speedily performed, was sufficient for the prisoner to have recollected himself; and the violence with which he carried his purpose into effect, with so many circumstances of deliberate determination, could neither be induced by the passion of anger, nor that of fear. It was the purpose and the act of predetermined revenge, for which law neither can, will, nor ought, to have sympathy or allowance.

"It is true, we may repeat to ourselves, in alleviation of this poor man's unhappy action, that his case is a very peculiar one. The country which he inhabits was, in the days of many now alive, inaccessible to the laws, not only of England, which have not even yet penetrated thither, but to those to which our neighbors of Scotland are subjected, and which must be supposed to be, and no doubt actually are, founded upon the general principles of justice and equity which pervade every civilized country. Amongst their mountains, as among the North American Indians, the various tribes were wont to make war upon each other, so that each man was obliged to go armed for his own

protection. These men, from the ideas which they entertained of their own descent and of their own consequence, regarded themselves as so many cavaliers or men-at-arms, rather than as the peasantry of a peaceful country. Those laws of the ring, as my brother terms them, were unknown to the race of warlike mountaineers; that decision of quarrels by no other weapons than those which nature has given every man, must to them have seemed as vulgar and as preposterous as to the Noblesse of France. Revenge, on the other hand, must have been as familiar to their habits of society as to those of the Cherokees or Mohawks. It is indeed, as described by Bacon, at bottom, a kind of wild untutored justice; for the fear of retaliation must withhold the hands of the oppressor where there is no regular law to check daring violence. But though all this may be granted, and though we may allow that, such having been the case of the Highlands in the days of the prisoner's fathers, many of the opinions and sentiments must still continue to influence the present generation, it cannot, and ought not, even in this most painful case, to alter the administration of the law, either in your hands, gentlemen of the jury, or in mine. The first object of civilization is to place the general protection of the law, equally administered, in the room of that wild justice, which every man cut and carved for himself, according to the length of his sword and the strength of his arm. The law says to the subjects, with a voice only inferior to that of the Deity, 'Vengeance is mine.' The instant that there is time for passion to cool, and reason to interpose, an injured party must become aware, that the law assumes the exclusive cognizance of the right and wrong betwixt the parties, and opposes her inviolable buckler to every attempt of the private party to right himself. I repeat, that this unhappy man ought personally to be the object rather of our pity than our abhorrence, for he failed in his ignorance, and from mistaken notions of honor. But his crime is not the less that of murder, gentlemen, and in your high and important office, it is your duty so to find. Englishmen have their angry passions as well as Scots; and should this man's action remain unpunished you may unsheath, under various pretences, a thousand daggers betwixt the Land's-end and the Orkneys."

The venerable judge thus ended what, to judge by his apparent emotion, and by the tears which filled his eyes, was really a painful task. The jury, according to his instructions, brought in a verdict of Guilty;

and Robin Oig M'Combich, *alias* M'Gregor, was sentenced to death, and left for execution, which took place accordingly. He met his fate with great firmness, and acknowledged the justice of his sentence. But he repelled indignantly the observations of those who accused him of attacking an unarmed man. "I give a life for the life I took," he said, "and what can I do more?"

The Napoleonic Era

HONORÉ DE BALZAC

COLONEL CHABERT

Among the brilliant novels and novelettes which were the product of Honoré de Balzac's (1799–1850) close observation and critical analysis of the society of his time, and forming a part of his monumental work, "The Human Comedy," are some which are intimately concerned with the law. Outstanding among these is the novelette, *Colonel Chabert*. Its tragic hero, a Napoleonic officer believed to have died in battle, struggles against tremendous odds to prove that he still lives—with the aid of an attorney who takes up his cause out of sheer idealism. His heartless and ultimately successful opponent is his wife who seeks to preserve the advantages gained by her status as his widow.

“Hello! there is our old box-coat again!”

This exclamation suddenly escaped a clerk who was one of that species known in the lawyers' offices as *saute-ruisseaux*—gutter-jumpers—and who at this moment was biting with a very good appetite into a piece of bread; out of it he took a small portion of the soft part to make a pellet, and threw this as a joke through the small open pane of the window on which he was leaning. The pellet, very well aimed, rebounded almost to the height of the window frame after having struck the hat of an unknown man who was crossing the court of a house situated in Rue Vivienne, in which dwelt Maître Derville, attorney.

“See here, Simonnin, no playing tricks upon people, or I will put you out of the office. However poor a client may be, he is still a man, what the devil!” said the head clerk, interrupting himself in the addition of a memorandum of costs.

The *saute-ruisseau* is generally, as was Simonnin, a youth of thirteen or fourteen years of age who in all offices is under the special orders of the principal clerk, whose commissions and whose billets-doux occupy much of his time even when engaged in carrying summonses to the bailiffs and petitions to the Palais. He belongs to the *gamins* of Paris by his manners, and to chicanery by his destiny. This youth is nearly always without pity, under no restraint, not to be disciplined, a lam-pooner, a banterer, greedy and lazy. Nevertheless, nearly all these little clerks have an old mother, living on a fifth floor, with whom they divide the thirty or forty francs which are allotted to them per month.

“If he is a man, why do you call him *old box-coat*?” said Simonnin with the air of a scholar who catches his master napping.

And he went on eating his bread and cheese, leaning his shoulder against the upright of the window; for he took his rest standing, like the van horses, one of his legs raised and supported against the other, on the toe of his shoe.

“What trick could we play on that *bloke*?” said, in a low voice, the third clerk, whose name was Godeschal, stopping in the midst of an argument which he was originating in the midst of an application engrossed by the fourth clerk and of which the copies were being made by two neophytes lately come from the provinces.

Then he continued his improvisation:

“—But, in his noble and benevolent wisdom, His Majesty Louis the Eighteenth—spell that all out, *he*, Desroches the wise who does the engrossing!—at the moment when he resumed the reins of his kingdom, comprehended—what is it that he comprehends, that great joker?—the high mission to which he had been called by divine Providence!—a point of admiration and six periods; they are religious enough at the Palais to allow us that,—and his first thought was, as is proved by the date of the ordinance hereunder designated, to repair the misfortunes caused by the frightful and mournful disasters of our Revolutionary period, in restoring to his faithful and numerous servants—‘numerous’ is a flattery that should please the tribunal—all their property that has not been sold, whether it be found in the public domain, whether it be found in the ordinary or extraordinary domains of the Crown, whether, finally, it be found in the endowments of public establishments, for we are and we claim ourselves able to maintain, that such is the spirit and the sense of the celebrated and so loyal ordinance rendered in—Wait,” said Godeschal to the three clerks, “this blackguard of a phrase has filled the end of my page.—Well,” he resumed, wetting with his tongue the back of his quire so as to be able to turn the thick page of his stamped paper, “well, if you wish to play a trick upon him, we must say to him that the master can only see his clients between two and three o’clock in the morning; we shall see if he will come, the old scamp!”

And Godeschal went on with the phrase commenced:

“*Rendered in*—Are you ready?” he asked.

“Yes,” cried the three copyists.

Everything went forward together, the application, the conversation and the conspiracy.

“*Rendered in*—I say, papa Boucard, what is the date of the ordinance? we must put the dots on the i’s, *saquerlotte!* That makes the pages.”

“*Saquerlotte!*” repeated one of the copyists before Boucard the head clerk could reply.

“What! have you written *saquerlotte?*” cried Godeschal, looking at the newcomer with an air at once severe and derisory.

“Why yes,” said Desroches, the fourth clerk, leaning over his neighbor’s copy, “he has written,—*We must put the dots on the i’s*, and *sakerlotte* with a k.”

All the clerks broke into a great shout of laughter.

“How, Monsieur Huré, you take *saquerlotte* for a legal term, and you say that you came from Martagne!” cried Simonnin.

“Strike that out!” said the head clerk. “If the judge who examines the papers should see things like that, he would say that everything was made fun of. You would make it disagreeable for our employer. Come now, do not commit any more stupidities like that, Monsieur Huré! A Norman should not write out an application carelessly. It is the *Carry Arms!* of bazoche.

“*Rendered in—in?—*” asked Godeschal. “Tell me when it was, Boucard?”

“June, 1814,” replied the head clerk without leaving his work.

A knock at the door of the office interrupted the phrases of the prolix application. Five clerks with good sets of teeth, with lively and mocking eyes, with crisp heads of hair, lifted their noses toward the door after having all cried in chorus:

“Come in!”

Boucard remained with his head buried in a pile of papers, called *brouille*—rubbish—in the slang of the Palais, and continued to draw up the memorandum of costs on which he was engaged.

The office was a large room ornamented with that classic stove which garnishes all these dens of chicanery. The pipes traversed the apart-

ment diagonally and entered a walled-up chimney, on the marble shelf of which might be seen divers pieces of bread, triangles of Brie cheese, cutlets of fresh pork, glasses, bottles, and the cup of chocolate of the head clerk. The odor of these comestibles combined so well with the disagreeable smell of the stove heated to an immeasurable degree, with the particular perfume of the office and of the old papers, that the smell of a fox would not have been perceptible there. The floor was already covered with filth and snow brought in by the clerks. Near the window was placed the cylindrical secretary of the principal clerk, against which was backed up the little table destined for the second in rank. The second at this moment was *doing* the Palais. It might be eight or nine o'clock in the morning. The office had for sole ornament those great yellow posters which announced the seizure of real estate, sales, public auctions to transfer from majors to minors, adjudications definite or preparative, the glory of offices! Behind the head clerk was an enormous case of pigeon-holes which rose from the bottom of the wall to the top, and each compartment of which was crammed with bundles of papers from which hung an infinite number of tickets and ends of red tape which give their peculiar appearance to legal documents. The lower ranks of this case were full of portfolios yellowed by usage, bordered by blue paper, and on which might be read the names of the important clients whose juicy affairs were at this moment being duly cooked. The dirty panes of the window allowed but little light to pass. Moreover, in the month of February there are very few offices in Paris where, before ten o'clock, you can write without the aid of a lamp, for they are all treated with a carelessness which may readily be conceived;—everyone goes to them, nobody stays in them, there is no personal interest attached to that which is so commonplace; neither the attorney, nor the litigants, nor the clerks, are concerned with the elegance of a locality which is for some a class, for the others a passage-way, for the master a laboratory. The dirty furniture is transferred from attorney to attorney with a scrupulousness so religious that certain offices still possess boxes for remainders, measures for parchment *slips*, bags which had belonged to the procureurs of the *Chlet*, an abbreviation of the word CHATELET, a jurisdiction in the ancient order of things which is represented by the present inferior court for civil causes. This gloomy office, thick with dust, had then, like all the others, something in it repulsive for the litigants, which made it one of

the most hideous of the Parisian monstrosities. Certainly, if the damp sacristies in which prayers are weighed and paid for like groceries, if the shops of the dealers in old clothes in which hang the rags that flout all the illusions of life in showing us to what all our festivals come, if these two cloacæ of all poetry did not exist, an attorney's office would be of all social places of barter the most horrible. But it is so also of the gambling house, of the police court, of the lottery bureau and of the house of ill-fame. Wherefore? Perhaps in these localities the drama which takes place in the human soul renders it indifferent to all the accessories,—which might explain also the simplicity of the great thinkers and of the greatly ambitious.

“Where is my penknife?”

“I am eating my breakfast.”

“Will you be careful, there is a pâté on the application!”

“’Ssh, messieurs.”

These various exclamations were all uttered at once at the moment that the old client closed the door behind him with that sort of humility which perverts all the movements of the unfortunate man. The unknown endeavored to smile, but the muscles of his countenance relaxed when he had vainly sought for some symptoms of amenity on the inexorably indifferent faces of the six clerks. Accustomed doubtless to judging men, he addressed himself very politely to the *saute-ruisseau*, hoping that this fag at least would reply civilly.

“Monsieur, can your master be seen?”

The malicious *saute-ruisseau* did not reply to the poor man other than by giving with the fingers of his left hand repeated little taps on his ear, as if to say, “I am deaf.”

“What do you want, monsieur?” asked Godeschal, at the same time swallowing a piece of bread large enough to have charged a four-pounder, flourishing his knife and crossing his legs in such a manner as to bring that one of his feet which happened to be in the air up to the level of his eye.

“I come here, monsieur, for the fifth time,” replied the patient one. “I wish to speak to Monsieur Derville.”

“Is it on business?”

"Yes, but I can only explain it to Monsieur—"

"The master is asleep; if you wish to consult him on some difficult question, he only goes to work seriously at midnight. But, if you would state your case to us, we could, as well as he, give you—"

The unknown remained impassive. He began to look modestly around him, like a dog which, having slipped into a strange kitchen, fears a beating. It is one of the advantages of their condition that the clerks have no fear of thieves; they had no suspicions, therefore, of the man in the box-coat and permitted him to make his observations of the locality, in which he vainly sought a seat on which to rest himself, for he was visibly fatigued. The attorneys systematically leave very few chairs in their offices. The ordinary client, weary of waiting while standing, goes away grumbling, but he does not take up time which, to adopt the expression of an old procureur, is not counted in taxing costs.

"Monsieur," he replied, "I have already had the honor to inform you that I can only explain my business to Monsieur Derville, I will await his awakening."

Boucard had finished his computation. He smelt the odor of his chocolate, rose from his cane-seated armchair, came to the chimney, surveyed the old man, looked at the box-coat and made an indescribable grimace. He probably was of the opinion that, in whatever manner this client might be twisted, it would be impossible to wring out of him a centime; he therefore intervened with a brief speech with the intention of disembarassing the office of an unprofitable case.

"They are telling you the truth, monsieur. The master only works at night. If your business is important, I would advise you to return at one o'clock in the morning."

The client looked at the head clerk with a stupid air, and remained for a moment motionless. Accustomed to all the changing expressions and to the singular caprices produced by indecision or by meditation which characterize the litigious, the clerks continued to eat, making as much noise with their jaws as would so many horses at the manger, and disquieting themselves no further about the old man.

"Monsieur, I will come this evening," said the latter finally, seeming to wish, with the tenacity peculiar to the unfortunate, to detect all humanity at fault.

The only epigram which is permitted to misery is to compel Justice and Benevolence to unjust denials. When the unfortunate have convicted Society of falsehood, they throw themselves more eagerly into the bosom of God.

"What a famous swaggerer!" said Simonnin, without waiting till the old man had closed the door.

"He looks as if he had been dug up," replied the clerk.

"It is some colonel claiming back-pay," said the head clerk.

"No, it is a former concierge," said Godeschal.

"Who will bet that he is noble?" cried Boucard.

"I will bet that he has been a porter," replied Godeschal. "The porters alone are endowed by nature with second-hand box-coats, greasy and ragged at the bottom as is that of this old fellow. You did not see, then, his boots down at the heels which let in the water, and his cravat which serves him for a shirt. He has been sleeping under the bridges."

"He may be noble and have pulled the concierge's door cord," cried Desroches. "Such things have been!"

"No," replied Boucard in the midst of the laughter, "I maintain that he was a brewer in 1789, and a colonel under the Republic."

"Ah! I will bet a theatre for the crowd that he never was a soldier," said Godeschal.

"It is a bargain," replied Boucard.

"Monsieur! Monsieur!" cried the little clerk, opening the window.

"What are you doing, Simonnin?" asked Boucard.

"I am calling him to ask him is he is a colonel or a porter; he ought to know, he ought."

All the clerks commenced to laugh. As for the old man, he was already remounting the stairs.

"What are we going to say to him?" cried Godeschal.

"Let me manage it!" replied Boucard.

The poor man re-entered timidly, lowering his eyes, perhaps so as not to reveal his hunger by looking too eagerly at the comestibles.

"Monsieur," said Boucard to him, "will you have the goodness to give us your name so that the master may know if—?"

"Chabert."

"Is it the colonel who was killed at Eylau?" asked Huré, who, having said nothing up to this time, was eager to add his mockery to that of the others.

"The same, monsieur," replied the goodman with an antique simplicity.

And he withdrew.

"*Chouit!*"

"Sacked!"

"Bankrupted!"

"Oh!"

"Ah!"

"Bâoum!"

"Ah! the old humbug!"

"*Trinn la la trinn trinn!*"

"Busted!"

"Monsieur Desroches, you will go to the theatre without paying," said Huré to the fourth clerk, giving him a slap on the shoulder that might have killed a rhinoceros.

It was a torrent of cries, of laughter, of exclamations, in the rendering of which all the onomatopœias of the language might be used.

"To what theatre shall we go?"

"To the Opéra," cried the principal.

"In the first place," replied Godeschal, "no theatre was mentioned. I can, if I want to, take you to Madame Saqui's."

"Madame Saqui's is not a theatre."

"What is a theatre?" replied Godeschal. "Let us establish first the point of departure. What did I bet, messieurs? A theatre. What is a theatre? Something that you go to see—"

"But, according to that system, you would pay us all by taking us to see the water run under the Pont Neuf?" cried Simonnin, interrupting.

"That you go to see by paying for it," said Godeschal, continuing.

"But you see by paying for them a great many things which are not theatres. The definition is not exact," said Desroches.

"But listen to me, then!"

"You are talking nonsense, my dear fellow," said Boucard.

"Is Curtius's a theatre?" said Godeschal.

"No," replied the head clerk, "it is a gallery of wax figures."

"I will bet a hundred francs against a sou," replied Godeschal, "that the gallery of Curtius constitutes the whole of those things upon which has devolved the name of theatre. It includes something to see at different prices, according to the different places in which you put yourself."

"And *berlik berlok*," said Simonnin.

"You take care that you do not get your ears cuffed!" said Godeschal.

The clerks shrugged their shoulders.

"Moreover, it is not proven that that old monkey was not making fun of us," said he, closing his argument, smothered by the laughter of the other clerks. "The facts are, that Colonel Chabert is very dead, his wife has married again, to the Comte Ferraud, councillor of State. Madame Ferraud is one of the clients of this office!"

"The case is adjourned till to-morrow," said Boucard. "Get to work, messieurs! *Sac à papier!* nothing is done here. Finish your application there, it must be declared before the hearing in the fourth chamber. The case is tried to-day. Come, get to work!"

"If he had been Colonel Chabert, would he not have applied the toe of his boot to the posterior of that joker of a Simonnin when he pretended to be deaf?" said Desroches, considering this observation as more conclusive than that of Godeschal.

"Since nothing is decided," replied Boucard, "we will agree to go to the second boxes at the Francais to see Talma in Nero. Simonnin can go to the parterre."

Whereupon the head clerk seated himself at his desk, and everyone followed his example.

"Rendered in June, Eighteen Hundred and Fourteen—written out," said Godeschal. "Have you got that?"

"Yes," replied the two clerks and the engrosser, whose pens commenced to creak across the stamped paper, making in the office as much noise as a hundred cockchafers shut up by scholars in paper horns.

"And we hope that the Messieurs constituting the tribunal—" said the improvisatore.—"Halt! I must reread my sentence, I do not understand it myself."

"Forty-six—That happens very often!—and three, forty-nine," said Boucard.

"We hope," resumed Godeschal, after having read over his text, *"that the Messieurs constituting the tribunal will not be less great than the august author of the ordinance, and that they will bring to justice the miserable pretensions of the administration of the grand chancellorship of the Legion of Honor by giving jurisprudence within the limits which we establish here—"*

"Monsieur Godeschal, would you like a glass of water?" said the little clerk.

"That scamp of a Simonnin!" said Boucard. "Here, get out your horses with double soles to them, take this package, and waltz over to the Invalides."

"Which we establish here," resumed Godeschal. "Add, in the interests of Madame—write it all out—*la Vicomtesse de Grandlieu—"*

"What!" cried the head clerk, "you have set yourself to drawing up the applications in the affair of the Vicomtesse de Grandlieu against the Legion of Honor, an office case, a suit on contract? Ah! you are a fine booby! Will you just put aside your copies and your minutes, keep those for the case of Navarreins against the Hospitals. It is late, I am going to do a piece of a petition, with the *whereases*, and I am going myself to the Palais—"

This scene represents one of those thousand pleasures which, later, give rise to the "Ah! Those were good times!" when thinking of our past youth.

Toward one o'clock in the morning the pretended Colonel Chabert came to knock at the door of Maître Derville, an attorney practising before the inferior court for civil causes of the department of the Seine. The porter said to him that Monsieur Derville had not yet returned. The old man stated his appointment, and ascended to the apartment of this celebrated lawyer, who, notwithstanding his youth, passed for one of the shrewdest men in the Palais. After having rung, the mistrustful client was not a little astonished to see the head clerk occupied in arranging on the table in the dining-room of his employer numerous bundles of documents of cases which would come up the next day, all in order. The clerk, not less astonished, bowed to the colonel and requested him to take a chair; which he did.

"Upon my word, monsieur, I thought that you were joking yesterday when you gave me such a very early hour for a consultation," said the old man, with the false cheerfulness of a ruined man who forces himself to smile.

"The clerks jested and spoke the truth both at once," replied the chief clerk, continuing his work. "Monsieur Derville has taken this hour for examining his causes, summing up his procedure, deciding on the conduct, arranging the defences. His prodigious intelligence is more at liberty at this time, the only one in which he can obtain the silence and the tranquillity necessary to the conceiving of the best ideas. You are, since he has been an attorney, the third instance of a consultation given at this nocturnal hour. After he comes in, he will discuss each case, read everything, pass perhaps four or five hours at his task; then he will ring for me and explain to me his intentions. In the morning, from ten o'clock to two, he hears his clients, then the rest of the day is employed with his appointments. In the evening, he goes out into society to meet his friends. It is then only at night that he can arrange his actions, search the arsenals of the Code and draw up his plans of battle. He does not like to lose a single case, he has a love for his profession. He does not take, as do his confrères, every kind of a case. That is his life, which is singularly active. Also, he makes a great deal of money."

While hearing this explanation the old man remained silent, and his grotesque countenance took on an expression so devoid of all intelligence that the clerk, after having looked at him, paid no further atten-

tion to him. A few moments later Derville returned, in evening dress; his principal clerk opened the door for him, and continued the classification of his documents. The young attorney remained for a moment stupefied on seeing in the obscurity the singular client who was waiting for him. The Colonel Chabert was as perfectly motionless as one of the wax figures in that gallery of Curtius to which Godeschal had proposed to take his comrades. This immobility would not perhaps have been a subject of surprise, if it had not completed the supernatural spectacle presented by his general appearance. The old soldier was lean and thin. His forehead, purposely concealed under the hair of his smooth wig, gave him something of a mysterious air. His eyes appeared to be covered with a transparent film,—you would have said of a soiled mother-of-pearl, the bluish reflections of which changed color in the light of the candles. The visage, pale, livid, and sharp as a knife—if I may be permitted this common expression—seemed deathly. The neck was surrounded by a shabby cravat of black silk. Below the brownish line described by this rag the body was so completely concealed in the shadow that an imaginative man might have taken this old head for some silhouette due to chance, or for a portrait by Rembrandt without a frame. The brim of the hat which covered the old man's forehead threw a black furrow upon the upper part of his countenance. This effect, grotesque though natural, brought out all the more by the sharpness of the contrasts, the whitish wrinkles, the cold sinuosities, the colorless quality of this cadaverous physiognomy. And finally, the absence of all movement in the body, of all warmth in the look, were in accord with a certain expression of sorrowful dementia, with the degrading symptoms which characterize idiocy, that they made of this figure something so fatal that no human speech could express it. But an observer, and especially an attorney, would have found furthermore in this shipwrecked man the signs of a profound grief, the indications of a misery which had degraded this visage, as the drops of water falling from the sky upon a beautiful marble will in the end disfigure it. A physician, an author, a magistrate, would have divined at once a complete drama from the aspect of this sublime horror, the least characteristic of which was to resemble those grotesques which the painters amuse themselves by sketching at the bottoms of their lithographic stones while talking with their friends.

When he saw the attorney, the unknown shivered with a convulsive movement like those which the poets involuntarily make when an unexpected noise arouses them from a fruitful reverie, in the midst of silence and the night. The old man uncovered promptly, and rose to salute the young man; the leathern band which lined the interior of his hat was doubtless very greasy, his wig stuck to it without his perceiving it, and left naked his bare skull horribly mutilated by a transverse scar which started at the occiput and ended at the right eye, forming throughout its length a great raised seam. The sudden removal of this dirty wig, which the poor man wore to hide his wound, did not suggest in the slightest degree anything laughable to the two men of the law, so frightful to see was this cleft cranium. The first thought suggested by the aspect of this wound was,—“Through that the intelligence has escaped!”

“If he is not Colonel Chabert, he must be a bold campaign trooper,” thought Boucard.

“Monsieur,” said Derville to him, “to whom have I the honor of speaking?”

“The Colonel Chabert.”

“To whom?”

“He who was killed at Eylau,” replied the old man.

On hearing this singular expression the clerk and the attorney threw upon each other a mutual glance which signified,—“It is a lunatic!”

“Monsieur,” resumed the colonel, “I would prefer to confide to you only the secret of my situation.”

One thing worthy of remark is the natural intrepidity of attorneys. Whether it be the habit of receiving a great number of people, whether it be the profound consciousness of the protection which the law affords them, whether it be confidence in their functions, they enter everywhere, without fearing anything, like the priests and the doctors. Derville made a sign to Boucard, who disappeared.

“Monsieur,” said the attorney, “during the day, I am not saving of my time; but in the middle of the night, my moments are valuable. Therefore, be brief and concise. Come to the point without digressions. I will ask you myself the explanations which may seem to me necessary. Speak.”

After having seated his singular client, the young man sat down himself before the table; but, whilst giving his attention to the discourse of the late colonel, he turned over his documents.

“Monsieur,” said the defunct, “perhaps you know that I commanded a regiment of cavalry at Eylau. I contributed greatly to the success of the celebrated charge made by Murat, which decided the victory. Unfortunately for me, my death is an historical fact recorded in the *Victoires et Conquêtes*, where it is related in detail. We broke in two the three Russian lines which, immediately reclosing, obliged us to traverse them again in an opposite direction. At the moment when we were returning toward the Emperor, after having dispersed the Russians, I encountered a body of the enemy’s cavalry. I threw myself upon those obstinate fellows. Two Russian officers, two veritable giants, attacked me at once. One of them dealt me over the head a sabre cut which went through everything, even to a cap of black silk which I was wearing, and laid my skull open deep. I fell from my horse. Murat came to my help, he passed over my body, he and all his people, fifteen hundred men, was not that enough! My death was announced to the Emperor, who, very considerably—he loved me a little, *le patron!*—wished to know if there might not be some chance of saving the man to whom he was indebted for that vigorous attack. He sent two surgeons to look for me and bring me back to the ambulances, saying to them, perhaps too carelessly, for he was occupied,—‘Go to see, then, if by chance my poor Chabert is still living.’ Those confounded sawbones, who had seen me trodden under the feet of the horses of two regiments, doubtless did not give themselves the trouble of feeling my pulse, and said that I was indeed dead. The certificate of my death was then probably drawn up according to the regulations established by the military jurisprudence.”

On hearing his client express himself with a perfect clearness and relate facts so possible, though unusual, the young attorney rejected his documents, rested his left elbow on the table, his head on his hand, and looked at the colonel steadily.

“Do you know, monsieur,” said he to him, interrupting him, “that I am the attorney of the Comtesse Ferraud, the widow of Colonel Chabert?”

“My wife! Yes, monsieur. Therefore, after a hundred fruitless attempts with the lawyers, who all thought I was crazy, I determined to come to find you. I will speak to you of my misfortunes later. Let me first establish the facts for you, explain to you rather how they may have come to pass than how they actually happened. Certain circumstances, which can only be known to the Eternal Father, oblige me to present several of them as hypotheses. Thus, monsieur, the wounds which I received, probably induced tetanus, or threw me into a state analogous to the malady named, I believe, catalepsy. Otherwise, how can it be conceived that I was, according to the usages of war, stripped of my clothes, and thrown into the soldier’s grave by those charged with the duty of burying the dead? Here, permit me to introduce a detail which I could not have known until after the event which may very well be called my death. I met, in 1814, in Stuttgart, a former quartermaster of my regiment. This dear fellow, the only one who has been willing to recognize me, and of whom I will speak to you presently, explained to me the phenomena of my preservation by telling me that my horse had received a bullet in his flank at the same moment that I myself was wounded. The animal and the rider then went down together like a house of cards. In falling, whether to the right or to the left, I was doubtless covered by the body of my horse, which prevented me from being crushed by the hoofs or struck by the bullets. When I came to myself, monsieur, I was in a position and in an atmosphere of which I could give you no idea, were I to discourse to you concerning it until to-morrow. The little air that I breathed was nephitic. I endeavored to move and found no space. On opening my eyes, I saw nothing. The scarcity of air was the most threatening circumstance, and the one which most enlightened me as to my position. I comprehended that there, where I was, the air was not renewed and that I was going to die. This thought took away from me the consciousness of the inexpressible pain by which I had been awakened. My ears rang violently. I heard, or I thought I heard—I wish to assert nothing—moans uttered by the heap of corpses in the midst of which I was lying. Although the memory of those moments is very shadowy, although my remembrances are confused, notwithstanding the impressions of suffering still more profound which I was to experience and which have confounded my ideas, there are nights in which I think I still hear those smothered sighs! But there was something more horrible than the cries,

a silence which I have never found elsewhere, the real silence of the tomb. Finally, lifting my hands, feeling the dead, I discovered a space between my head and the human manure above. I could then measure the space which had been left to me by a chance, the cause of which was unknown to me. It seemed that, thanks to the carelessness, or to the precipitation, with which we had been thrown in pell-mell, two corpses had been crossed above me in such a manner as to describe an angle similar to that of two cards placed one against the other by a child who is laying the foundations of a castle. In searching about promptly, for there was no time to lose, I encountered, very fortunately, an arm which was not attached to anything, the arm of a Hercules, a good bone to which I owed my salvation. Without that unhoped-for succor, I should have perished! But, with a rage which you should be able to conceive, I set myself to work to traverse the corpses which separated me from the layer of earth doubtless thrown upon us,—I say ‘us,’ as if we had been living! I worked well, monsieur, for here I am! But I do not know to-day how I was able to succeed in piercing the covering of flesh which put a barrier between myself and life. You will say to me that I had three arms! This lever, which I made use of with skill, procured me constantly a little air which was between the corpses which I displaced, and I regulated my breathing. Finally I saw the daylight, but through the snow, monsieur. At that moment I perceived that my head was laid open. Fortunately, my blood, that of my comrades or the mangled skin of my horse perhaps, how do I know! had, in coagulating, furnished me, as it were, with a natural plaster. Notwithstanding this crust, I fainted when my head came in contact with the snow. However, the little heat that was left in me, having melted the snow around me, I found myself, when I recovered consciousness, in the centre of a little opening through which I called as long as I could. But by this time the sun had risen, I had then but little chance of being heard. Was there already any one in the fields? I lifted myself up by making with my feet a spring, the base of which rested on the dead who had solid loins. You feel that it was not the moment to say to them, ‘Honor to unfortunate courage!’ In short, monsieur, after having had the grief, if that word can render my rage, at seeing for a long time, oh! yes, for a long time, those cursed Germans run away on hearing a voice there where they saw no man, I was finally extricated by a woman who was sufficiently courageous, or

sufficiently curious, to approach my head, which seemed to have grown up through the ground like a mushroom. This woman went to get her husband, and the two carried me to their poor cabin. It appears that I had a relapse of catalepsy,—allow me this expression with which to describe to you a state of which I have no idea, but which I judged, from what my hosts said, must have been an effect of that malady. I remained for six months between life and death, not speaking, or raving when I did speak. Finally my hosts got me admitted to the hospital at Heilsberg. You understand, monsieur, that I came out of the belly of the grave as naked as out of that of my mother; so that when, six months later, one fine morning, I remembered that I had been the Colonel Chabert, and when, recovering my reason, I wished to obtain from my nurse somewhat more respect than she would have given to a poor devil, all my comrades of the ward began to laugh. Happily for me, the surgeon had, through his professional pride, answered for my recovery, and was naturally interested in his patient. When I had related to him in their sequence, facts of my former existence, this worthy man, whose name was Sparchmann, had drawn up, in the judicial forms required by the law of the country, a statement of the miraculous manner in which I had issued from the burial ditch, the day and the hour on which I had been found by my benefactress and her husband; the nature, the exact position of my wounds, joining to these different certificates a description of my person. Well, monsieur, I have neither these important documents, nor the declaration which I made before a notary of Heilsberg with a view of establishing my identity! Since the day when I was driven from that city by the events of the war, I have constantly wandered about like a vagabond, begging my bread, treated as a madman when I related my adventures, and without having either found or gained a sou with which to procure the papers which could prove my statements, and restore me to social life. Often my pains detain me for six months at a time in the little towns where they are prodigal of their cares to the sick Frenchman, but where they laugh in the face of this man as soon as he pretends to be Colonel Chabert. For a long time, this laughter, these doubts, threw me into a fury which injured me and which even caused me to be locked up as a madman in Stuttgart. In truth, you may judge, after my recital, whether there have been sufficient reasons for imprisoning a man! After two years of detention to which I was obliged to submit, after

having heard a thousand times my guardians saying, 'There is a poor man who thinks himself to be Colonel Chabert!' to people who replied, 'The poor fellow!' I became convinced of the impossibility of my own adventure, I became sorrowful, resigned, tranquil, and renounced calling myself Colonel Chabert, so that I might get out of prison and return to France. Oh! monsieur, to see Paris again, that was a delirium which I did not—"

With this unfinished sentence Colonel Chabert fell into a profound reverie, which Derville respected.

"Monsieur, one fine day," resumed the client, "one day in spring, they gave me my liberty and ten thalers, under the pretext that I talked very sensibly on all sorts of subjects, and that I no longer called myself Colonel Chabert. Upon my word, about that time and still to-day, at moments, my name is disagreeable to me. I could wish not to be myself. The consciousness of my rights kills me. If my malady had taken from me all memory of my past existence, I should have been happy! I would have entered the service under some name or other, and, who knows? I should perhaps have become a field marshal in Austria or Russia."

"Monsieur," said the attorney, "you confuse all my ideas. I think myself dreaming while listening to you. For mercy's sake, let us stop a moment."

"You are," said the colonel with a melancholy air, "the only person who has listened to me so patiently. Not one functionary of the law has been willing to advance me ten napoleons in order to procure from Germany the necessary papers for commencing my suit—"

"What suit?" said the attorney, who had forgotten the unfortunate situation of his client while listening to the recital of his past miseries.

"But monsieur, is not the Comtesse Ferraud my wife? She possesses thirty thousand francs of income which belong to me, and is not willing to give me two liards. When I say these things to the attorneys, to sensible men; when I propose, I, a beggar, to bring an action against a count and a countess; when I rise up, I, deceased, against a certificate of death, a marriage certificate and certificates of birth, they show me out, according to their character, either with that air coldly polite which you know how to put on in order to get rid of an unfortunate, or brutally,

like men who think they have encountered an adventurer or a fool. I have been buried under the dead; but, now, I am buried under the living, under certificates, under facts, under society in its entirety, which wishes to put me again under ground."

"Monsieur, will you please go on now," said the attorney.

"*Will you please,*" cried the unfortunate old man, grasping the younger one's hand, "that is the first word of politeness that I have heard since—"

The colonel wept. Gratitude stifled his voice. That penetrating and indescribable eloquence which is in the look, in the gesture, in the very silence, had ended by convincing Derville and touched him deeply.

"Listen, monsieur," he said to his client, "I have won this evening three hundred francs at play; I can well employ the half of this sum in securing the happiness of a man. I will commence the inquiries and the proceedings necessary to procure the documents of which you speak, and, until they arrive, I will remit to you a hundred sous a day. If you are Colonel Chabert, you will know how to pardon the modesty of the loan in a young man who has his fortune to make. Proceed."

The pretended colonel remained for a moment motionless and stupefied; his extreme misfortune had doubtless destroyed his beliefs. If he pursued his lost military renown, his fortune, himself, perhaps it was in obedience to that inexplicable sentiment, the seed of which is in the hearts of all men, and to which we owe the researches of the alchemists, the passion for glory, the discoveries of astronomy, of physics, everything which urges man to aggrandize himself by multiplying himself by deeds or ideas. The *ego* in his thought was no more than a secondary object, in the same manner that the vanity of triumph or the pleasure of gaining becomes dearer to the bettor than are the stakes of the wager. The words of the young attorney were then like a miracle for this man repulsed during ten years by his wife, by justice, by the entire creation of society. To find in an attorney's house those ten pieces of gold which had been refused him during so long a time, by so many persons and in so many manners! The colonel resembled that lady who, having had a fever for fifteen years, thought that she had only changed the malady for another the day on which she was cured. There are felicities in which no one believes; they arrive, it is the thunder, they consume. Therefore the gratitude of the poor man was too lively

to permit him to express it. He would have seemed cold to superficial observers, but Derville divined a complete probity in this stupor. A cheat would have found his voice.

"Where was I?" said the colonel with the naïveté of a child or a soldier, for there is often a good deal of the child in the real soldier, and nearly always of the soldier in the child, especially in France.

"At Stuttgart. You had just come out of prison," replied the attorney.

"Do you know my wife?" asked the colonel.

"Yes," replied Derville with an inclination of the head.

"How is she?"

"Charming, still."

The old man made a sign with his hand, and seemed to master some secret pain with that grave and solemn resignation which characterizes men tried in the blood and the fire of battle-fields.

"Monsieur," he said with a sort of gaiety,—for he breathed again, this poor colonel, he issued a second time from the grave, a shroud of snow less easily melted than that which had formerly encased his head in ice had dissolved, and he inhaled the air as though he had just left a dungeon;—"Monsieur," he said, "if I had been a pretty youth, not one of my misfortunes would have happened to me. The women believe men when they stuff their phrases with the word 'love.' Then, they trot about, they come and go, they will do anything, they intrigue, they assert facts, they work like the devil for any one who pleases them. How could I have interested any woman? I had a face like a *Requiem*, I was clothed like a *sans-culotte*, I resembled rather an Esquimau than a Frenchman, I who had formerly passed for the prettiest of the dandies in 1799! I, Chabert, Comte de l'Empire! Well, on the very day on which they threw me out on the sidewalk like a dog, I met the quartermaster of whom I have already spoken to you. The name of this comrade was Boutin. The poor devil and I, we made the prettiest pair of jades that I have ever seen; I saw him on the promenade; if I recognized him it was impossible for him to guess who I was. We went together to a cabaret. There, when I declared myself, Boutin's mouth opened in a shout of laughter like a mortar that bursts. This mirth, monsieur, caused me one of my keenest mortifications! It re-

vealed to me without any embellishment all the change that had taken place in me! I was then unrecognizable, even by the eye of one of the humblest and most grateful of my friends! I had formerly saved Boutin's life, but it was a service that I owed him. I will not tell how it was that he had put me under this obligation. The incident took place in Italy, at Ravenna. The house in which Boutin saved me from being poignarded was not a very decent one. At that period, I was not a colonel, I was a simple trooper, like Boutin. Fortunately, this history included some details that could be known only to ourselves, and when I recalled them to him, his incredulity diminished. Then I related to him the accidents of my grotesque existence. Although my eyes, my voice, were, he told me, singularly altered, though I no longer had either hair, or teeth, or eyebrows, though I was as white as an albino, he ended by finding his colonel again in the beggar, after a thousand interrogations to which I responded victoriously. He related to me his adventures, they were not less extraordinary than mine;—he had returned from the borders of China, which he had endeavored to reach after having escaped from Siberia. He informed me of the disasters of the campaign in Russia, and of the first abdication of Napoléon. This news was one of the things which afflicted me the most! We were two curious wrecks, after having thus rolled around the globe as roll about in the ocean the pebbles carried by the tempests from one shore to the other. Between us, we had seen Egypt, Syria, Spain, Russia, Holland, Germany, Italy and Dalmatia, England, China, Tartary, Siberia; we only lacked having been to India and America! Finally, more nimble than I was, Boutin took upon himself to go to Paris as quickly as possible in order to inform my wife of the state in which I was. I wrote to Madame Chabert a letter full of details. It was the fourth, monsieur! If I had had any relatives, perhaps none of all this would have happened to me; but, it is necessary to admit it, I was a hospital foundling, a soldier who for patrimony had his courage, for family, all the world, for country, France, for his only protector, the good God. I am mistaken! I had a father, the Emperor. Ah, if he had been about, the dear man, and if he had seen *his Chabert*, as he called me, in the condition in which I was, why, he would have flown into a rage. What would you have! our sun is set, we are all cold now. After all, the political events might have justified my wife's silence! Boutin set off. He was very happy, he was! He had two white bears, very well trained,

which provided him with a living. I could not accompany him; my pains would not permit me to make long stages. I wept, monsieur, when we separated, after having walked as long as my condition would permit me in the company of his bears and himself. At Carlsruhe, I had an attack of neuralgia in the head, and remained six weeks on the straw of an inn. I would never finish, monsieur, if it were necessary to relate to you all the misfortunes of my life as a beggar. The mental sufferings, before which the physical pains paled, excited, however, less sympathy, because they could not be seen. I remember having wept before a hotel in Strasbourg where I had once given a display, and where I could obtain nothing, not even a morsel of bread. Having arranged with Boutin the itinerary which I would follow, I went to every post-office to ask if there were a letter and money for me. I came as far as Paris without having received anything. How many despairs did I not have to undergo! 'Boutin must be dead,' I said to myself. In fact, the poor devil had perished at Waterloo. I learned of his death later, and accidentally. His mission to my wife was doubtless fruitless. Finally, I entered Paris, at the same time as the Cossacks. For me, it was sorrow on sorrow. When I saw the Russians in France, I no longer remembered that I had neither shoes on my feet, nor money in my pocket. Yes, monsieur, my garments were in rags. The night before my arrival I was obliged to bivouac in the wood of Claye. The chill of the night caused an accession of I know not what malady, which suddenly seized me as I was traversing the Faubourg Saint-Martin. I fell almost fainting at the door of an iron merchant. When I came to myself, I was in a bed in the Hôtel-Dieu. There I remained during a month, sufficiently comfortable. I was presently dismissed; I was without money, but in good condition and on the good pavement of Paris. With what joy and what promptitude I hastened to the Rue du Mont-Blanc, where my wife should be living in a hôtel of mine. Bah! the Rue du Mont-Blanc had become the Rue de la Chaussée-d'Antin. I saw nothing of my hôtel, it had been sold, demolished. Some speculators had built several houses in my gardens. Not knowing that my wife had married Monsieur Ferraud, I could obtain no information. Finally, I went to see an old advocate who had formerly had charge of my affairs. The worthy man was dead, after having bequeathed his practice to a young man. The latter informed me, to my great astonishment, of the opening of my will, the settlement

of my estate, the marriage of my wife and the birth of her two children. When I told him that I was Colonel Chabert, he laughed out so frankly that I left him without making the slightest observation to him. My detention in Stuttgart made me think of Charenton, and I resolved to act with prudence. Then, monsieur, knowing where my wife lived, I took my way toward her hôtel, my heart full of hope. "Well," said the colonel with a movement of concentrated rage, "I was not admitted until I had announced myself under a borrowed name, and the day on which I took my own, I was shown out of her door. To see the countess returning from a ball or the theatre, in the morning, I have remained for entire nights flattened against the post of her portecochère. My look plunged into this carriage which passed before my eyes with the rapidity of lightning, and in which I hardly caught a glimpse of this woman who is mine and who is no longer mine! Oh! from that day I have lived for vengeance," cried the old man in a muffled voice, and rising suddenly before Derville. "She knows that I am living; she has received from me, since my return, two letters written by myself. She no longer loves me! As for myself, I do not know whether I love her or detest her! I desire her and I curse her alternately. She owes to me her fortune, her happiness; well, she has not even sent me the slightest assistance! At moments, I no longer know what will happen!"

With these words the old soldier fell into his chair again, and again became motionless. Derville remained silent, occupied in the contemplation of his client.

"The case is grave," he said finally, mechanically. "Even in admitting the authenticity of the papers which should be found at Heilsberg, I am not convinced that we could triumph at once. The suit will be brought successively before three tribunals. It will be necessary to reflect with due calmness on such a cause, it is altogether exceptional."

"Oh!" replied the colonel coldly, lifting his head with a proud movement, "if I succumb, I shall know how to die, but in company."

The old man had suddenly disappeared. The eyes of the man of energy blazed up, illuminated by the fires of desire and of vengeance.

"It will perhaps be necessary to come to an understanding," said the attorney.

"Come to an understanding!" repeated Colonel Chabert. "Am I dead, or am I living?"

"Monsieur," replied the attorney, "you will follow, I hope, my advice. Your cause shall be my cause. You will presently perceive the interest which I take in your situation, almost without precedent in judicial records. Meanwhile, I will give you a word to my notary who will remit to you, on your receipt, fifty francs every ten days. It will not be convenient that you should come here for assistance. If you are Colonel Chabert, you should not be at the mercy of anyone. I will give to these advances the form of a loan. You have property to recover, you are rich."

This last delicate attention wrung tears from the old man. Derville rose suddenly, for it was not perhaps customary for an attorney to show emotion; he passed into his cabinet, from which he returned with an unsealed letter which he handed to the Comte Chabert. When the poor man took it between his fingers, he felt two gold pieces through the paper.

"Will you designate to me the certificates, give me the name of the city, of the kingdom?" said the attorney.

The colonel dictated the desired information, verifying the spelling of the names of the localities; then he took his hat in one hand, looked at Derville, offered him the other hand, a callous hand, and said to him in a simple voice:

"Upon my word, monsieur, after the Emperor, you are the man to whom I shall owe the most! You are *a brave*."

The attorney struck his hand in that of the colonel, conducted him as far as the stairway and lighted him down.

"Boucard," said Derville to his head clerk, "I have just heard a story which will cost me perhaps twenty-five louis. If I am robbed, I shall not regret my money, I shall have seen the most skilful actor of our epoch."

When the colonel found himself in the street and before a lantern, he took out of the letter the two pieces of twenty francs which the attorney had given him, and looked at them for a moment in the light. He saw gold again, for the first time in nine years.

"I am going to smoke some cigars!" he said to himself.

About three months after this consultation in the night between Colonel Chabert and Derville, the notary charged with the disbursement of the half-pay which the attorney allotted to his singular client came to confer with him upon an important affair, and commenced by claiming from him six hundred francs remitted to the old soldier.

"You amuse yourself, then, by maintaining the old army?" laughingly said this notary, a young man named Crottat, who had bought out the office in which he had been head clerk, and the principal of which had taken flight, after a frightful bankruptcy.

"I thank you, my dear maître," replied Derville, "for reminding me of that affair. My philanthropy will not go beyond twenty-five louis, I fear already to have been the dupe of my patriotism."

As Derville finished his sentence, he saw upon his desk the packages which his head clerk had placed there. His eyes were attracted by the aspect of the stamps, oblong, square, triangular, red, blue, affixed to a letter by the Prussian, Austrian, Bavarian and French post-offices.

"Ah!" said he laughing, "here is the *dénouement* of the comedy, we will see if I have been trapped."

He took the letter and opened it, but could read nothing, it was written in German.

"Boucard, go yourself and have this letter translated, and return promptly," said Derville, half opening the door of his cabinet and extending the letter to his head clerk.

The Berlin notary whom the attorney had addressed announced to him that the certificates which he had asked for would reach him a few days after this letter of notification. The papers, he said, were perfectly regular, and clothed with all the legal formalities necessary to make them valid in law. Moreover, he notified him that nearly all the witnesses of the facts recorded in the documents were living in Prussich-Eylau; and that the woman to whom Monsieur le Comte Chabert owed his life, still dwelt in one of the faubourgs of Heilsberg.

"This is becoming serious," cried Derville when Boucard had given him the substance of this letter. "But I say, my good fellow," he went on, addressing the notary, "I am going to need some information

which should be in your office. Was it not in the office of that old scamp of a Roguin—”

“We say the unfortunate, the unhappy Roguin,” interrupted the Maître Alexandre Crottat, laughingly.

“Was it not in the office of that unfortunate who succeeded in carrying away eight hundred thousand francs from his clients, and reducing several families to despair, that the settling of the inheritance Chabert took place? It seems to me that I have seen that in our Ferraud papers.”

“Yes,” replied Crottat, “I was then third clerk; I have made the copies of this settling and carefully studied it. Rose Chapotel, wife and widow of Hyacinthe, called Chabert, Comte de l’Empire, grand officer of the Legion of Honor; they were married without contract, the property was therefore held in common. As well as I can remember, the actual property amounted to about six hundred thousand francs. Before his marriage, the Comte Chabert had made a will in favor of the hospitals of Paris by which he devoted to them a quarter of the fortune of which he should be in possession at the moment of his death, the State inherited another fourth. There was auction, sale and division, because the attorneys put things through. At the time of the liquidation, the monster who then governed France restored by a decree, to the colonel’s widow, the portion due to the exchequer.”

“Thus the personal fortune of the Comte Chabert amounts then only to some three hundred thousand francs?”

“Consequently, my good fellow!” replied Crottat. “You are sometimes perfectly exact, you attorneys, although you are accused of falsifying in your pleadings, as much for, as against.”

The Comte Chabert, whose address might be read at the bottom of the first receipt which he had given to the notary, lived in the Faubourg Saint-Marceau, Rue du Petit-Banquier, in the house of an old quartermaster of the Imperial Guard, who had turned milk-dealer and was named Vergniaud. When he arrived there, Derville was obliged to go on foot in search of his client; for his coachman refused to commit himself to a street unpaved, the ruts of which were a little too deep for the wheels of a cabriolet. By looking about him on all sides the attorney ended by discovering, in that part of the street which was in the neighborhood of the boulevard, between two walls built with bones and clay,

two dilapidated pilasters in rough stone which had been damaged by the passage of vehicles, notwithstanding pieces of wood placed to protect them. These pilasters supported a beam covered by a coping in tiles, on which these words were marked in red,—VERGNIAUD, NOURICEURE. To the right of this name might be seen some eggs; to the left, a cow, all painted in white. The gate was open, and doubtless remained so throughout the day. At the back of a sufficiently spacious court, opposite the gate, was a house, if, however, this name can be applied to one of those wretched buildings erected in the faubourgs of Paris, and which are comparable to nothing, not even to the poorest dwellings in the country, of which they have all the poverty without having any of the poetry. In fact, in the midst of the fields, the cabins have still a grace which is given them by the purity of the air, the verdure, the aspect of the fields, a hill, a winding road, vines, a living hedge, the moss of the roofs, and the agricultural utensils; but in Paris, poverty is only increased by its horror. Although recently constructed, this building seemed to be ready to fall in ruins. Not one of its materials was applied to its appropriate use, they all came from the demolitions which daily take place in Paris. Derville read on a shutter made with the boards of a sign,—*Magasin de nouveautés*. The windows had no resemblance among themselves, and were absurdly placed. The ground floor, which appeared to be the habitable portion, was raised up on one side, whilst on the other, the chambers were buried by a declivity. Between the gate and the house extended a morass strewn with manure and irrigated by pools of rain water and those proceeding from the establishment. The wall against which this miserable lodging leaned, and which appeared to be more solid than the others, was garnished with boxes with slats within which real rabbits produced their numerous families. To the right of the porte-cochère was situated the cow-house, surmounted by a forage loft, and which communicated with the house by a dairy. To the left was a poultry-yard, a stable, and a pig-sty which had been finished, like the house, with broken planks of white wood, nailed one upon the other and badly covered with rushes. As in nearly all the localities in which are prepared the materials for that great repast which Paris devours every day, the court in which Derville now set foot showed signs of that hurry required by the necessity of arriving at a certain hour. Those great cans of dented tin in which the milk is transported, and the pots which contain

the cream, were thrown about pell-mell before the dairy, with their stoppers of linen. The tattered cloths which served to dry them were floating in the sunlight, suspended from cords attached to pickets. That pacific horse whose species is only found in dairies, had made a few steps before his cart and waited before the stable, the door of which was closed. A goat was browsing on the branches of the thin and dusty vine which adorned the yellow and cracked wall of the house. A cat was crouching among the cream pots and licking them. The chickens, frightened at Derville's approach, fled with much outcry, and the watch dog barked.

"The man who decided the victory at the battle of Eylau lives there!" said Derville to himself, embracing with one glance the whole of this ignoble spectacle.

The house had been left under the protection of three boys. One of them, perched upon the top of a cart loaded with green hay, was pitching stones into the chimney of a neighboring house, hoping that they would fall into the pot over the fire. The second was endeavoring to induce a pig to venture upon the floor of the cart which rested upon the earth, whilst the third, hanging at the other end, was waiting till the pig should have done so to lift him in the air by making a see-saw of the cart. When Derville asked them if Monsieur Chabert lived there, none of them replied, and all three looked at him with a lively stupidity, if it be permissible to combine these two words. Derville repeated his question without success. Vexed at the jeering air of these three scamps, he addressed them with those sharp words spoken good-naturedly which young people think themselves privileged to offer to children, and the boys broke their silence with a brutal laugh. Derville grew angry. The colonel, who had heard, came out from a little low chamber situated near the dairy and appeared on the threshold of his door with a military phlegm quite inexpressible. He had in his mouth one of those pipes notably *culottées*—darkened, a technical expression of the smokers,—one of those humble pipes of white clay called *brule-gueule*—mouth-burners. He lifted the peak of a horribly greasy cap, saw Derville and crossed the manure heap to come more promptly to his benefactor, crying in a friendly voice to the boys:

"Silence in the ranks!"

The children immediately fell into a respectful silence, which revealed the authority which the old soldier exercised over them.

“Why have you not written to me?” said he to Derville. “Go along by the cow-house! See, there, the way is paved,” he cried, noticing the attorney’s hesitancy, he not wishing to wet his feet in the manure.

By leaping from place to place, Derville reached the threshold of the door out of which the colonel had come. Chabert seemed to be affected disagreeably at being obliged to receive him in the chamber which he occupied. In fact, Derville saw there but one chair. The colonel’s bed consisted of some bundles of straw over which his hostess had spread two or three pieces of those old hangings, picked up I know not where, with which the milk-sellers cover the seats of their carts. The floor was simply of trodden earth. The walls, full of saltpetre, greenish and cracked, diffused so much humidity in the air that the wall against which the colonel slept was hung with a mat of rushes. The famous box-coat hung on a nail. Two pairs of poor boots lay in a corner. No vestige of linen. On the worm-eaten table, the *Bulletins de la Grande Armée*, reprinted by Plancher, lay open, and appeared to have furnished the colonel’s reading matter; his face was calm and serene in the midst of this poverty. His visit to Derville seemed to have changed the expression of his features, on which the attorney found the traces of a pleasant thought, a peculiar light which had been thrown upon them by hope.

“Does pipe smoke incommode you?” said he, offering to his attorney the chair of which half the straw was gone.

“But, colonel, you are horribly situated here!”

This phrase was drawn from Derville by the mistrust natural to attorneys and by the deplorable experience which they early receive from the frightful and unknown dramas in which they take part. “Well,” said he to himself, “here is a man who has certainly taken my money to satisfy the three theological virtues of the trooper,—gambling, wine and women!”

“That is true, monsieur, we do not shine here by luxury. It is a bivouac tempered by friendship, but—” here the soldier threw a profound look upon the man of law,—“but I have done no wrong to anyone, I have never turned anyone away, and I sleep in peace.”

The attorney reflected that it would not be very delicate to ask an account of his client of the money which had been advanced him, and he contented himself by saying:

"Why have you not been willing to come into Paris, where you would have lived a little more expensively than here, but where you would have been better off?"

"But," replied the colonel, "the honest people with whom I am, took me in, took care of me gratis for a year! how then could I leave them the moment I had a little money? Then, the father of these three boys is an old *Egyptian*—"

"How, an Egyptian?"

"We give this name to the troopers who came back from the expedition to Egypt, of which I was a part. Not only are all those who came back a little like brothers, but Vergniaud was then in my regiment, we have shared our water in the desert; moreover, I have not yet finished teaching his little brats to read."

"He might have lodged you much better for your money, he might."

"Bah!" said the colonel, "his children sleep, as I do, on straw! His wife and himself have no better bed; they are very poor, do you see! they have taken an establishment beyond their resources. But, if I recover my fortune—In short, that is all!"

"Colonel, I should receive to-morrow, or the day after, your papers from Heilsberg. Your deliveress is still living."

"Curse the money! To think that I have none!" he cried, dashing his pipe to the ground.

A pipe *culottée* is a piece precious to a smoker; but this was by a gesture so natural, by a movement so generous, that all smokers and even the excise commissioners would have pardoned him this crime of *lese-tabac*. The angels perhaps would have picked up the pieces.

"Colonel, your affair is excessively complicated," said Derville to him, leaving the chamber to go and walk in the sun along the front of the house.

"It appears to me," said the soldier, "perfectly simple. I was thought to be dead, here I am! Return to me my wife and my fortune; give me

the rank of general to which I am entitled, for I was made colonel in the Imperial Guard the day before the battle of Eylau."

"Things do not go that way in the judicial world," replied Derville. "Listen to me. You are the Comte Chabert, I am agreed; but it is a question of proving it judicially to those who are going to have an interest in denying your existence. Therefore, your certificates will be disputed. This discussion will bring up ten or twelve preliminary inquiries. Everything will be carried, after the hearing of both sides, up to the supreme court, and will necessitate costly proceedings, which will be long delayed, no matter what activity I put into them. Your adversaries will demand an inquest, which we cannot refuse, and will necessitate perhaps a commission of inquiry in Prussia. But supposing that everything goes smoothly; we will admit that you are recognized promptly by the courts as Colonel Chabert. Do we know how will be decided the question raised by the very innocent bigamy of the Comtesse Ferraud? In your case, the legal point raised is outside the Code, and can only be decided by the judges according to the laws of conscience, as do the juries in the delicate questions presented by the social anomalies of some criminal processes. Then, you had no children by your marriage, and Monsieur le Comte Ferraud has two by his; the judges may declare void that marriage in which the ties are the weaker, in favor of that one which includes the stronger ones, from the moment in which it was contracted in good faith by both parties. Will you be in a very admirable moral position, in stubbornly insisting upon having at your age and in the circumstances in which you find yourself, a wife who no longer loves you? You will have against you your wife and her husband, two powerful personages who may influence the courts. The suit has then in it elements of duration. You will have time to grow old in it, in the keenest chagrins."

"And my fortune?"

"You believe then that there is a large fortune?"

"Did I not have thirty thousand francs income?"

"My dear colonel, you executed, in 1799, before your marriage, a testament which left a quarter of your property to the hospitals."

"That is true."

“Well, when you were declared deceased, was it not necessary to proceed to an inventory, to a liquidation, in order to give this quarter to the hospitals? Your wife did not scruple to deceive the poor. The inventory, in which doubtless she was very careful not to mention the cash on hand, and the jewels, in which she produced very little silver, and in which the movable property was estimated at two-thirds of the real value, whether to favor her, whether to pay less duty to the exchequer, or because the appraisers are responsible for their estimation, the inventory, thus made, established a valuation of six hundred thousand francs. For her part, your widow was entitled to one-half. Everything was sold, bought in by her, she got the benefit of it all, and the hospitals received their seventy-five thousand francs. Then, as the public exchequer was one of your heirs, seeing that you had made no mention of your wife in your will, the Emperor returned to her by a decree, the portion due the public treasury. Now then, to what are you entitled? To three hundred thousand francs only, less the costs.”

“And you call that justice?” said the stupefied colonel.

“Why certainly—”

“It is fine!”

“It is so, my poor colonel. You see that what you have thought easy, is not so. Madame Ferraud can keep even the portion which was given to her by the Emperor.”

“But, as she is not a widow, the decree is void—”

“Agreed. But everything can be argued before the courts. Listen to me. Under these circumstances, I think that an agreement would be, for you and for her, the best outcome of the suit. You will gain by it a fortune more considerable than that to which you are entitled.”

“That would be to sell my wife?”

“With twenty-four thousand francs of income, you would have, in the position in which you would be, women who would suit you better than your wife, and who would render you more happy. I intend to go to-day even to see Madame la Comtesse Ferraud in order to explore the ground; but I did not wish to take this step without notifying you.”

“Let us go together to see her—”

"As you are now?" said the attorney. "No, no, colonel, no. You might lose your suit by it completely."

"Can my suit be won?"

"Under every head," replied Derville. "But, my dear Colonel Chabert, you neglect one thing. I am not rich, I have not yet entirely paid for my office. If the courts award you a provision, that is to say, a sum to receive in advance upon your fortune, they will not give it to you until after they have recognized you as Comte Chabert, grand officer of the Legion of Honor."

"That's a fact, I am grand officer of the Legion of Honor, I had forgotten it," he said naïvely.

"Well, until then," Derville went on, "will it not be necessary to plead the case in the courts, to pay the advocates, to raise and satisfy judgments, to set the bailiffs on foot, and to live? The costs of the preliminary actions will mount up, roughly speaking, to more than twelve or fifteen thousand francs. I have not got them, I who am crushed under the enormous interest which I pay to those who lent me the money to purchase my office. And you, where will you find them?"

The big tears fell from the faded eyes of the poor soldier and rolled down his withered cheeks. At the aspect of these difficulties, he was discouraged. The social world and the judicial world weighed upon his chest like a nightmare.

"I will go," he cried, "to the foot of the column in the Place Vendôme, I will cry there,—'I am the Colonel Chabert who broke the great square of the Russians at Eylau.' The bronze statue, he! he will recognize me."

"And they will doubtless send you to Charenton."

At this formidable name, the soldier's exaltation fell.

"Should I not have some favorable chances at the Ministry of War?"

"The Bureaus!" said Derville. "Go there, but only with a formal judgment which declares void your certificate of death. The Bureaus would like to abolish all the servants of the Empire."

The colonel rested for a moment overwhelmed, motionless, looking without seeing, sunk in a boundless despair. Military justice is frank, rapid, it decides Turkish fashion, and nearly always judges justly; this justice was the only one that Chabert knew. On perceiving the labyrinth

of difficulties in which he would have to engage himself, on seeing how much money would be required to penetrate it, the poor soldier received a mortal blow in that power peculiar to man and which is named the *will*. It seemed to him impossible to live as a suitor, it would be a thousand times more simple for him to remain poor; a beggar, to enlist as a trooper if some regiment would take him. His sufferings, physical and moral, had already affected his body in some of the most important vital organs. He was on the verge of one of those maladies for which the science of medicine has no name, the seat of which is in some sort capable of motion, like the nervous apparatus which seems to be the most often attacked among all those of our bodily machine, an affection which it would be necessary to designate as the *spleen* of unhappiness. However grave this affection, invisible but real, might be already it was yet capable of being cured by a happy conclusion. To shake completely this vigorous organization, it would suffice that a new obstacle, that some unforeseen fact, should come to break the weakened springs of action and produce those hesitations, those uncomprehended, incomplete acts, which the physicians observe in those ruined by distress.

In thus recognizing the symptoms of a profound prostration in his client, Derville said to him:

"Take courage, the solution of this affair cannot but be favorable to you. Only, consider if you can give me your entire confidence, and accept blindly whatever I judge best for you."

"Do whatever you like," said Chabert.

"Yes, but you give up to me like a man who is going to his death?"

"Am I not going to remain without any position, without a name? Is that tolerable?"

"I do not understand it so," said the attorney. "We will secure, in friendly proceedings, a decision which will annul your certificate of death and your marriage, so that you can come into your rights again. You will even be, through the influence of Comte Ferraud, placed upon the army lists as general, and you will doubtless obtain a pension."

"Go ahead then!" replied Chabert, "I trust entirely in you."

"I will send you a power of attorney to sign," said Derville. "Adieu, have courage! If you are in want of money, count on me."

Chabert shook Derville's hand warmly, and remained with his back leaning against the wall, without the strength to follow him other than with his eyes. Like all those who are inexperienced in judicial affairs he was terrified at this unforeseen contest. During this conference, there had appeared several times beyond one of the pilasters of the port-cochère the head of a man stationed in the street to watch for the coming out of Derville, and who accosted him when he appeared. It was an old man wearing a blue vest, a sort of pleated white sack like those of the brewers, and on his head an otter-skin cap. His face was dark, hollowed and wrinkled, but reddened on the cheeks by excess of labor and tanned by the open air.

"Excuse me, monsieur," said he to Derville, stopping him by taking hold of his arm, "if I take the liberty of speaking to you, but I thought to myself when I saw you that you were the friend of our general."

"Well," said Derville, "how are you interested in him? But who are you?" added the suspicious attorney.

"I am Louis Vergniaud," he replied promptly. "And I should like to say two words to you."

"And it is you who have lodged the Comte Chabert in the way he is?"

"Pardon, excuse me, monsieur, he has the best chamber. I would have given him mine if I had but one. I would have slept in the stable. A man who has suffered as he has, who is teaching my brats to read, a general, an Egyptian, the first lieutenant under whom I served,—you should see! He is the best lodged of anybody. I have shared with him what I had. Unluckily it was not very much, some bread, some milk, eggs; in short, you must suit yourselves to the times. It is all done willingly. But he has hurt us."

"He?"

"Yes, monsieur, hurt, there, to speak plainly—I have taken an establishment beyond my means, he sees it very clearly. That worries him, and he grooms the horse! I said to him,—'But, *mon général!* 'Bah!' he said, 'I do not want to be like an idler, and I learned to do this long ago.' I have, then, given some notes in payment for my milk business to a man named Grados—Do you know him, monsieur?"

"But, my dear fellow, I have not the time to listen to you. Only tell me how the colonel has hurt you."

"He has hurt us, monsieur, as true as my name is Louis Vergniaud, and my wife has cried about it. He learned, through the neighbors, that we had not the first sou toward paying our note. The old growler, without saying a word, has kept together all that you have given him, has watched for the note, and paid it. It was wicked! When my wife and I, we knew that he had no tobacco, this poor old man, and that he did without it! Oh! now, every morning, he has his cigars, I would sell myself rather—No, we are hurt! Then, I wished to propose to you to lend us, seeing that he said to us that you were a fine man, a hundred écus on our establishment, so that we can make him have some clothes, that we can furnish his chamber. He has thought that he would square us up, did he not? Well, on the contrary, don't you see, the old man has put us in debt,—and hurt us! He ought not to have offered us this affront. He has hurt us, and among friends, too! On the word of an honest man, as true as that I am called Louis Vergniaud, I will promise rather than not to return you that money there—"

Derville looked at the milk-dealer, and took several steps backward for another look at the house, the court, the manure heaps, the stable, the rabbits, the children.

"Upon my word! I believe that one of the qualifications of virtue is not to be a proprietor," he said to himself. "Well, you shall have your hundred écus! and more even. But it is not I who will give them to you, the colonel will be amply rich enough to help you, and I do not wish to take that pleasure from him."

"Will it be soon?"

"Why, yes."

"Ah! *Mon Dieu!* how pleased my wife will be!"

And the sun-burned countenance of the milk-dealer seemed to expand.

"Now then," thought Derville, getting into his cabriolet again, "we will go to see our adversary. Do not let your own play be seen, endeavor to find out hers, and win the game by one stroke. It will be necessary to frighten her. She is a woman. At what are women the most frightened? But the women are only terrified at—"

He set himself to studying the countess's position, and fell into one of those meditations which absorb the great men of politics in arranging their own plans, in endeavoring to divine the secret of the enemy's cabinet. Are not attorneys in some measure statesmen charged with private affairs? A glance at the situation of Monsieur le Comte Ferraud and his wife is necessary here in order to understand the genius of the attorney.

Monsieur le Comte Ferraud was the son of a former counselor of the Parliament at Paris, who had emigrated during the Terror, and who, if he had saved his head, had lost his fortune. He returned during the Consulate, and remained constantly faithful to the interests of Louis XVIII., one of whose advisers his father had been before the Revolution. He therefore belonged to that party in the Faubourg Saint-Germain which nobly resisted all Napoléon's seductions. The reputation for ability which the young count, then known simply as Monsieur Ferraud, enjoyed, rendered him the object of the coquetries of the Emperor, who was frequently as happy over his conquests among the aristocracy as over the winning of a battle. The count was promised the restoration of his title, that of his property which had not been sold, he was shown in the distance the post of minister, that of senator. The Emperor failed. Monsieur Ferraud was, at the period of Comte Chabert's death, a young man of twenty-six, without fortune, with an agreeable exterior, who had had some successes, and whom the Faubourg Saint-Germain had adopted as one of its glories; but Madame la Comtesse Chabert had known so well how to make the most of her husband's inheritance that after eighteen months of widowhood she was still in the enjoyment of some forty thousand francs of income. Her marriage with the young count was not altogether a piece of news to the coteries of the Faubourg Saint-Germain. Happy at this marriage, which carried out his ideas of fusion, Napoléon returned to Madame Chabert the portion of her late husband's estate which had fallen into the exchequer; but his hopes were again disappointed. Madame Ferraud not only loved her lover in the young man, she had been seduced also by the idea of entering that disdainful society which, notwithstanding its abasement, dominated the Imperial court. All her vanities as well as her passions were flattered by this marriage. She was about to become a *femme comme il faut*. When the Faubourg Saint-Germain learned that the young count's marriage was not a desertion, the salons opened to his wife. The Restoration arrived.

The political advancement of Comte Ferraud was not rapid. He understood the exigencies of the situation in which Louis XVIII. found himself, he was of the number of the initiated who waited until *the abyss of the revolutions was closed*, for this royal phrase, so derided by the Liberals, concealed a political meaning. Nevertheless, the ordinance cited in the long clerical phrase in the commencement of this history had restored to him two forests and an estate the value of which had been considerably augmented during the sequestration. At this moment, though the Comte Ferraud was councillor of State and director-general, he considered his position as the beginning only of his political fortune. Absorbed by the cares of a devouring ambition, he had taken as his secretary a former attorney, now ruined, named Delbecq, a man more than skilful, who was admirably informed in all the ruses of chicanery, and to whom he left the conduct of his private affairs. This shrewd practitioner had comprehended his position in the count's household well enough to remain honest through calculation. He hoped to succeed to some position through the influence of his patron, whose fortune was the object of all his cares. His conduct so gave the lie to his former life that he passed for a calumniated man. With the tact and the shrewdness with which all women are more or less endowed, the countess, who had justly estimated her intendant, watched him adroitly, and knew so well how to manage him that she had already secured a very good position for the augmentation of her private fortune. She had been able to persuade Delbecq that she ruled Monsieur Ferraud, and had promised to have him appointed president of an inferior court for civil causes in one of the most important cities of France if he devoted himself entirely to her interests. The promise of a permanent position which would permit him to make an advantageous marriage, and to conquer later a high position in the political world by becoming a deputy, made of Delbecq the devoted tool of the countess. He had not allowed to escape him one of those favorable chances which the movements on the Bourse and the rise in values presented in Paris to skilful manipulators during the first three years of the Restoration. He had increased threefold the capital of his protectress, with so much the more facility that all methods had seemed good to the countess which might help to promptly increase her fortune to an enormous size. She employed the emoluments received by the count from his various positions for the household expenses so as to be able to form a capital from her revenues,

and Delbecq lent himself to the calculations of this avarice without endeavoring to explain the motives to himself. Individuals of this species concern themselves only about secrets the discovery of which would be advantageous to their own interests. Moreover, he found the reason so naturally in that thirst for gold with which the greater number of the Parisiennes are affected, and so great a fortune was required to support the pretensions of Comte Ferraud, that the intendant thought sometimes that he saw in the avidity of the countess only an effect of her devotion to the man with whom she was still in love. The countess had buried the secrets of her conduct in the bottom of her heart. There rested the secrets of life and death for her, there lay precisely the key to this history. At the commencement of the year 1818, the Restoration was seated on a base apparently unshakable, its doctrines of government, comprehended by the most intellectual, seemed to them about to bring to France an era of new prosperity, then the Parisian society changed face. Madame la Comtesse Ferraud found that she had through chance made a marriage at once of love, of fortune and of ambition. Still young and beautiful, Madame Ferraud played the part of a fashionable woman, and lived in the atmosphere of the Court. Rich in her own right, rich through her husband, who, extolled as one of the most capable men of the royalist party and the friend of the king, seemed destined to be minister, she belonged to the aristocracy and partook of its splendors. In the midst of this triumph she was attacked by a moral cancer. There are sentiments which women perceive instinctively notwithstanding all the care which men take to conceal them. At the time of the first return of the king, Comte Ferraud had conceived some regrets because of his marriage. The widow of Colonel Chabert had brought him no alliance, he was alone and without support in a career full of dangers and full of enemies. Then, perhaps, when he became able to judge his wife dispassionately he had recognized in her certain vices of education which rendered her unable to second him in his projects. A word which he had dropped apropos of Talleyrand's marriage enlightened the countess, to whom it was demonstrated that, if her marriage were still to be accomplished, she would never be Madame Ferraud. This regret, what woman can ever forgive it? Does it not contain the germ of all insults, of all crimes, of all repudiations? But what a wound would this word not open in the countess's heart if it came to be supposed that she feared to see her first husband reappear! She had known that he was living,

she had repulsed him. Then, during the time in which she had no longer heard from him she pleased herself by believing him dead at Waterloo with the Imperial eagles, in company with Boutin. Nevertheless, she resolved to attach the count to her by the strongest of bonds, by a golden chain, and resolved to be so rich that her fortune would render her second marriage indissoluble if by chance Comte Chabert should appear again. And he had reappeared, without her being able to explain to herself why the contest which she feared had not already commenced. Sufferings, disease, had perhaps delivered her from this man. Perhaps he was half demented, Charenton might yet bring him to terms. She had not been willing to take Delbecq or the police into her confidence, through fear of giving herself a master, or of precipitating the catastrophe. There are in Paris a great many wives who, like the Comtesse Ferraud, live in the company of a concealed moral monster, or who skirt an abyss; they become callous in regard to their evil, and are still able to laugh and to amuse themselves.

"There is something very singular in the situation of Monsieur le Comte Ferraud," said Derville to himself as he came out of his long reverie at the moment when his cabriolet stopped in the Rue de Varennes, at the doors of the Hôtel Ferraud. "How is it that he, so wealthy, a favorite of the king, is not yet a peer of France? It is true that it is perhaps a part of the king's policy, as Madame de Grandlieu said to me, to give a very high importance to the peerage by not distributing it too freely. Moreover, the son of a counselor of Parliament is neither a Crillon nor a Rohan. Comte Ferraud can only enter surreptitiously into the Upper Chamber. But, if his marriage were annulled, could he not assume, to the great satisfaction of the king, the peerage of one of those old senators who have only daughters? That will certainly be a good story to begin with to frighten our countess," he thought as he ascended the perron.

Derville had, without knowing it, put his finger on the secret wound, buried his hand in the cancer which was devouring Madame Ferraud. He was received by her in a pretty winter dining-room in which she was breakfasting while playing with a monkey fastened by a chain to a sort of little post furnished with iron bars for steps. The countess was enveloped in an elegant peignoir; the curls of her hair, carelessly fastened up, escaped from under a cap which gave her a little saucy air. She was fresh and smiling. The silver, the enamel, the mother-of-pearl,

sparkled on the table, and there were around her flowers curiously arranged in magnificent vases of porcelain. When he saw the wife of Comte Chabert, wealthy with what he had left her, in the midst of luxury, in the highest society, whilst the unfortunate man was living in the house of a poor milk-dealer, among the cattle, the attorney said to himself:

“The moral of all this is that a pretty woman will never be willing to recognize her husband, or even her lover, in a man in an old box-coat, in a grass wig and boots full of holes.”

A malicious and biting smile gave expression to the ideas half philosophical, half mocking, which might naturally come to a man sufficiently well placed to be acquainted with the true state of things notwithstanding the falsehoods under which the majority of Parisian families conceal their existence.

“Good day, Monsieur Derville,” she said, continuing to give the monkey his coffee.

“Madame,” said he brusquely, for he was offended at the light tone in which the countess had said to him, “Good day, Monsieur Derville,” —“I come to see you about an affair of considerable gravity.”

“I am *in despair* to hear it, Monsieur le Comte is absent.”

“I am enchanted to hear it, Madame. He would be *in despair* if he assisted at our conference. I know, moreover, through Delbecq, that you like to conduct your affairs yourself, without wearying Monsieur le Comte.”

“Then I will call Delbecq,” she said.

“He will be useless to you, notwithstanding his skill,” replied Derville. “Listen, madame, a word will suffice to render you serious. The Comte Chabert is living.”

“Is it by saying such buffooneries as that that you wish to make me serious?” she said with a peal of laughter.

But the countess was suddenly mastered by the strange clearness of the fixed look with which Derville interrogated her, while seeming to read the depths of her soul.

“Madame,” he replied with a cold and piercing gravity, “you are ignorant of the extent of the dangers which menace you. I will not

“speak to you of the incontestable authenticity of the documents, or of the certainty of the proofs which attest the existence of the Comte Chabert. I am not the man to take up a bad case, that you know. If you oppose our proof of falsity of the certificate of death, you will lose this first suit, and this question decided in our favor will gain for us all the others.”

“Of what then do you propose to speak to me?”

“Neither of the colonel, nor of yourself. I will not speak to you, either, of the memoirs which might be drawn up by clever attorneys, armed with the curious facts of this case, and of the conclusions which they would draw from the letters which you received from your first husband before the celebration of your marriage with the second.”

“That is false!” she cried with all the violence of a *petite maitresse*. “I have never received any letters from the Comte Chabert; and if some one claims to be the colonel, he is only an adventurer, some liberated convict, like Cogniard perhaps. It makes you shiver, just to think of it. Could the colonel come to life again, monsieur? Bonaparte sent me a complimentary message on his death by an aide-de-camp, and I still have three thousand francs of pension awarded to his widow by the Chambers. I have had a thousand reasons to repulse all the Chaberts that have come, as I would repulse all those who may come.”

“Fortunately we are alone, madame. We can lie at our ease,” he said coldly, amusing himself by stirring up the anger which agitated the countess in order to wrest from her some indiscretions, a manœuvre familiar to the lawyers, accustomed to remain calm while their adversaries or their clients fly into a passion. “Well, then, it is between us two,” he said to himself, inventing on the spur of the moment a trap to demonstrate to her her weakness. “The proof of the sending of the first letter exists, madame,” he went on, aloud, “it contained some funds—”

“Oh! funds, it did not contain any at all.”

“You have then received this first letter,” resumed Derville smiling. “You are already caught in the first trap which an attorney sets for you, and you think yourself able to contend with justice—”

The countess reddened, paled, hid her face in her hands. Then she shook off her mortification, and replied with the self-possession natural to this kind of women:

"Since you are the attorney of the pretended Chabert, do me the pleasure to—"

"Madame," said Derville, interrupting, "I am still at this moment as much your attorney as the colonel's. Do you think that I wish to lose a practice as valuable as is yours? But you are not listening to me—"

"Speak, monsieur," she said graciously.

"Your fortune came to you from Monsieur le Comte Chabert, and you have repelled him. Your fortune is colossal, and you allow him to beg. Madame, the lawyers are very eloquent when the cases are themselves eloquent; there are to be met with here circumstances capable of raising public opinion against you."

"But, monsieur," said the countess, impatient at the manner in which Derville turned her and re-turned her on the gridiron, "admitting that your Monsieur Chabert exists, the courts would maintain my second marriage because of the children, and I should be quit of him by returning two hundred and twenty-five thousand francs to Monsieur Chabert."

"Madame, we do not know in what manner the courts would look at the sentimental question. If, on the one side, we have a mother and her children, we have on the other a man overwhelmed by misfortune, aged by you, by your refusals. Where would he find a wife? Then, could the judges infringe the law? Your marriage with the colonel has on its side, legality, priority. But, if you are represented under odious colors, you might have against you an adversary whom you do not expect. There, madame, lies this danger from which I would wish to preserve you."

"A new adversary," she said: "who?"

"Monsieur le Comte Ferraud, madame."

"Monsieur Ferraud has too great an attachment to me, and, for the mother of his children, a too great respect—"

"Do not speak of these sillinesses," said Derville, interrupting her, "to lawyers accustomed to reading the bottoms of hearts. At this moment, Monsieur Ferraud has not the least desire to break your marriage, and I am persuaded that he adores you; but, if some one should

come to say to him that his marriage might be annulled, that his wife would be arraigned as a criminal at the bar of public opinion—”

“He would defend me, monsieur.”

“No, madame.”

“What reason would he have for abandoning me, monsieur?”

“Why, that of marrying the only daughter of a peer of France, the peerage of which would be transmitted to him by an ordinance of the king—”

The countess grew pale.

“We have got it!” said Derville to himself. “Good, I have it, the affair of the poor colonel is gained.—Moreover, madame,” he resumed aloud, “he would have all the less remorse because a man covered with glory, general, count, grand officer of the Legion of Honor, would not be a poor second choice; and, if this man demanded of him again his wife—”

“Enough! enough, monsieur!” she said. “I shall never have any attorney but you. What is to be done?”

“Come to an agreement!” said Derville.

“Does he love me still?” she said.

“Why, I do not believe that he could do otherwise.”

At this word the countess raised her head. A gleam of hope shone in her eyes; she figured perhaps upon working upon the tenderness of her first husband to gain her cause by some feminine ruse.

“I shall await your orders, madame, to know whether it will be necessary to notify you of our certificates, or if you will be willing to come to my office to draw up the basis of an agreement,” said Derville, taking his leave of the countess.

A week after the two visits which Derville had made, and on a beautiful morning in the month of June, the husband and wife, disunited by an almost supernatural fortune, set out from the two points of Paris the most distant from each other, to meet in the office of their common attorney. The advances which Derville had generously made to Colonel Chabert permitted him to appear in a costume suitable to his rank. The defunct accordingly arrived established in a very neat cabriolet. He

had his head covered with a wig suitable to his physiognomy, wore a suit of blue cloth, white linen, and carried under his waistcoat the red cross of the grand officers of the Legion of Honor. In resuming the costume of a comfortable life, he had found again his former martial elegance. He held himself upright. His countenance, grave and mysterious, on which were depicted happiness and all his hopes, appeared to have renewed its youthfulness and to have become more *grasse*, to borrow from painting one of its most picturesque expressions. He no more resembled the Chabert of the old box-coat than a big sou resembles a forty-franc piece newly coined. On seeing him, the passers-by could easily have recognized in him one of those fine remnants of our old army, one of those heroic men upon whom our national glory is reflected, and who represent it, as a fragment of ice illuminated by the sun, seems to reflect all its rays. These old soldiers are at once paintings and volumes. When the count descended from his carriage to ascend Derville's steps, he leaped out as lightly as a young man could have done. Hardly had his cabriolet turned away when a handsome coupé covered with armorial bearings arrived. Madame la Comtesse Ferraud stepped from it in a simple toilet which was yet skilfully contrived to display the youthfulness of her figure. She had a pretty capote lined with pink silk which framed in perfectly her face, dissimulating its outlines and reanimating them. If the clients had renewed their youth, the office had remained like itself, and still presented the scene with the description of which this tale commenced. Simonnin was eating his breakfast, his shoulder leaning against the window, which now was open, and he was contemplating the blue of the sky through the opening of this court surrounded by four black buildings.

"Ah!" cried the little clerk, "who wants to bet a theatre that the Colonel Chabert is a general and a *cordon rouge*?"

"Our patron is a famous magician," said Godeschal.

"There is no trick to be played upon him to-day, then?" asked Desroches.

"It is his wife who will take charge of that, the Comtesse Ferraud!" said Boucard.

"Come now," said Godeschal, "the Comtesse Ferraud will then have to do with two?—"

"Here she is!" replied Simonnin.

At this moment the colonel entered and asked for Derville.

"He is here, Monsieur le Comte," said Simonnin.

"You are not deaf then, little scamp," said Chabert, taking the *sauterieu* by the ear and twisting it to the great satisfaction of the clerks, who laughed and looked at the colonel with the curious consideration due to that singular personage.

The Comte Chabert was in Derville's apartment at the moment when his wife entered by the office door.

"I say, Boucard, there will be a singular scene in the patron's cabinet! There is a wife who can go on the even days to the Comte Ferraud and on the odd days to the Comte Chabert."

"In the bissextile years the *count* will be even," said Godeschal.

"Will you be quiet, messieurs! you can be overheard," said Boucard severely; "I have never seen an office in which the clients are made sport of as they are here."

Derville had consigned the colonel to the bedchamber when the countess presented herself.

"Madame," he said to her, "not knowing whether it would be agreeable to you to see Monsieur le Comte Chabert, I have separated you. If, however, you should desire—"

"Monsieur, this is an attention for which I thank you."

"I have prepared the draft of an agreement the conditions of which can be discussed by you and by Monsieur Chabert at the present sitting. I will go alternately from you to him, to present to you, alternately, your respective reasons."

"Let us see, monsieur," said the countess, making an involuntary gesture of impatience.

Derville read:

"Between the undersigned,

"Monsieur Hyacinthe, called *Chabert*, count, field-marshal, and grand officer of the Legion of Honor, living in Paris, Rue du Petit-Banquier, on one side:

“And la dame Rose Chapotel, wife of Monsieur le Comte Chabert, named above, née—”

“Go on,” she said, “never mind the preamble, let us get to the conditions.”

“Madame,” said the attorney, “the preamble explains succinctly the position in which each of you finds yourself. Then, by Article I, you recognize, in the presence of three witnesses, who are two notaries and the dairyman in whose house your husband has lived, to whom I have confided your affair under the seal of secrecy, and who will maintain the most profound silence, you recognize, I say, that the individual designated in the certificates joined to the private deed, but whose condition will be found otherwise established by an *acte de notoriété* prepared by Alexandre Crottat, your notary, is the Comte Chabert, your first husband. By Article II, the Comte Chabert, in the interests of your happiness, engages himself to make use of his rights only in the cases provided for by the agreement itself.—And these cases,” said Derville, making a sort of parenthesis, “are none other than the non-execution of the clauses of this secret agreement.—On his part,” he resumed, “Monsieur Chabert consents to procure, by mutual consent with you, a judgment which will annul his certificate of death and will decree the dissolution of his marriage.”

“That does not suit me at all,” said the astonished countess. “I do not wish any suit drawn up. You know why.”

“By Article III,” said the attorney, continuing with an imperturbable phlegm, “you engage to constitute in the name of Hyacinthe, Comte Chabert, an annuity of twenty-four thousand francs, inscribed on the register of the public debt, but the capital of which will revert to you at his death.—”

“But that is much too dear!” said the countess.

“Can you make a better bargain?”

“Perhaps.”

“What do you wish then, madame?”

“I wish—I do not wish any suit; I wish—”

“That he should remain dead?” said Derville quickly, interrupting her.

"Monsieur," said the countess, "if it requires twenty-four thousand francs of income, we will go to law—"

"Yes, we will go to law," cried, in a muffled voice, the colonel, opening the door and appearing suddenly before his wife, one hand in his vest and the other extended towards the floor, a gesture to which the remembrance of his adventure gave a horrible energy.

"It is he!" said the countess to herself.

"Too dear!" the old soldier went on. "I have given you nearly a million, and you haggle with my misfortune. Well, I want you now, you and your fortune. We have a community of goods, our marriage has not been broken—"

"But monsieur is not Colonel Chabert," cried the countess, feigning surprise.

"Ah!" said the old man in a tone of profound irony, "do you wish some proofs? I picked you up in the Palais-Royal—"

The countess turned white. In seeing her pale under her rouge, the old soldier, touched by the keen suffering which he was inflicting upon a woman formerly ardently loved, paused suddenly; but he received from her a look so venomous that he went on suddenly:

"You were in the house of—"

"Pray, monsieur," said the countess to the attorney, "make it convenient that I leave this place. I have not come here to listen to such horrors."

She rose and went out. Derville precipitated himself into the office. The countess had taken wings and had as it seemed flown away. Returning to his cabinet, the attorney found the colonel in a violent state of rage and traversing the room with great strides.

"In those times, each one took his wife wherever he wanted," he said; "but I made the mistake of choosing badly, of trusting to appearances. She has no heart."

"Well, colonel, was I not right in entreating you not to come? I am now certain of your identity. When you showed yourself, the countess made a movement the signification of which was not doubtful. But you have lost your suit, your wife knows that you are unrecognizable!"

"I will kill her—"

"Nonsense, you will be taken and guillotined like a wretch. Moreover, perhaps you might miss your stroke! that would be unpardonable, you should never miss your wife when you wish to kill her. Let me repair your blunders, you great child! Go away. Take care of yourself, she would be capable of making you tumble into some trap and of shutting you up in Charenton. I am going to notify her of our certificates in order to guarantee you from any surprise."

The poor colonel obeyed his young benefactor, and went away stammering excuses. He slowly descended the steps of the black staircase, lost in sombre thoughts, overwhelmed perhaps by the blow which he had just received, for him the cruelest, the most deeply buried in his heart, when he heard, as he reached the last step, the rustling of a dress and his wife appeared.

"Come, monsieur," she said to him, taking him by the arm with a movement similar to those which were once familiar to him.

The action of the countess, the accent of her voice which had become gracious again, sufficed to calm the colonel's anger, and he allowed himself to be led to the carriage.

"Well, get in!" said the countess to him when the footman had let down the steps.

And he found himself, as if by enchantment, seated by the side of his wife in the coupé.

"Where will madame go?" asked the footman.

"To Groslay," she said.

The horses set off and traversed the whole of Paris.

"Monsieur—" said the countess to the colonel in a voice which revealed one of those emotions rare in life, and by which everything that we have within us is moved.

In these moments, heart, fibres, nerves, physiognomy, soul and body, everything, each pore even, shivers. Life seems to be no longer within us; it issues and springs out, it communicates itself like a contagion, transmits itself by the look, by the accent of the voice, by the gesture, in imposing our will on others. The old soldier shuddered on hearing this one word, this first, this terrible "Monsieur." But also it was at once a reproach, a prayer, a pardon, a hope, a despair, an interrogation,

a response. This word comprehended everything. It would be necessary to be a comédienne to have been able to throw so much eloquence, so much feeling, into one word. The truth is not so complete in its expression, it does not set everything outside, it allows to be seen all that is within. The colonel experienced a thousand remorse for his suspicions, his demands, his anger, and lowered his eyes so that his trouble might not be perceived.

"Monsieur," resumed the countess after an imperceptible pause, "I recognized you indeed!"

"Rosine," said the old soldier, "that word contains the only balm that can make me forget my misfortunes."

Two great tears fell all warm on his wife's hands, which he pressed to express a paternal tenderness.

"Monsieur," she went on, "how was it that you did not perceive that it cost me a fearful price to appear before a stranger in a position as false as is mine? If I have to blush at my situation, let it at least be only in the midst of the family. Should not this secret rest buried in our hearts? You will absolve me, I hope, for my apparent indifference to the misfortunes of a Chabert in whose existence I should not believe. I received your letters," she said quickly, reading her husband's objections on his features, "but they reached me thirteen months after the battle of Eylau; they were opened, soiled, the writing was unrecognizable, and I could not but think, after having obtained the signature of Napoléon upon my new contract of marriage, that some adroit adventurer was trying to exploit me. In order not to trouble the peace of mind of Monsieur le Comte Ferraud, and not to disturb the family ties, I was obliged then to take precautions against a pretended Chabert. Was I not right? tell me."

"Yes, you were right; it is I who was a fool, an animal, a beast, not to have known how better to consider the consequences of such a situation. But where are we going?" said the colonel, seeing himself at the Barrière de la Chapelle.

"To my country house, near Groslay, in the valley of Montmorency. There, monsieur, we will reflect together on the position which we should take. I know my duties. If I am yours by law, I no longer belong to you in fact. Can you wish that we should furnish a story for

all Paris? Let us not inform the public of this situation which for me has a ridiculous side, and let us know how to preserve our dignity. You love me still," she went on, throwing a gentle and sad look upon the colonel; "but I, was I not authorized to form other ties? In this singular situation, a secret voice tells me to hope in your goodness, which is so well known to me. Have I been in the wrong in taking you for the sole and unique arbiter of my destiny? Be both judge and client. I confide in the nobility of your character. You will have the generosity to pardon me the results of innocent faults. I will avow it to you, then, I love Monsieur Ferraud. I think myself right in loving him. I do not blush for this avowal before you; if it offends you, it does not dishonor us in the least. I cannot conceal the facts from you. When chance left me a widow, I was not a mother."

The colonel made a sign with his hand to impose silence upon his wife, and they remained without uttering a single word for the space of half a league. Chabert thought he saw the two children before him.

"Rosine!"

"Monsieur?"

"The dead are then very wrong to return?"

"Oh! monsieur, no, no! Do not think me ungrateful. Only, you find a loving woman, a mother, here where you left a wife. If it is no longer in my power to love you, I know all that I owe to you and can still offer you all a daughter's affection."

"Rosine," replied the old man in a gentle voice, "I no longer bear any resentment against you. We will forget everything," he added, with one of those smiles the grace of which is always the reflection of a fine soul. "I am not sufficiently wanting in delicacy to exact the semblance of love from a woman who no longer loves me."

The countess threw upon him a look filled with such gratitude, that the poor Chabert would have been willing to have entered again his grave at Eylau. Some men have souls sufficiently strong for such devotions, the recompense for which is found for them in the certainty of having given happiness to a beloved person.

"My dear friend, we will talk of all this later, and with quiet hearts," said the countess.

The conversation took another turn, for it was impossible to continue long on this subject. Although the husband and wife often returned to their grotesque situation, either by allusions or seriously, they had a charming drive, recalling the events of their former union and the things of the Empire. The countess knew how to give a gentle charm to these souvenirs, and diffused over the conversation a tinge of melancholy that was necessary to maintain its gravity. She succeeded in reviving love without exciting any desire, and allowed her first husband to perceive all the mental accomplishments that she had acquired, while endeavoring to accustom him to the idea of restricting his happiness to those enjoyments only which a father tastes in the presence of a cherished daughter. The colonel had known the countess of the Empire, he now saw a countess of the Restoration. Finally, the married pair arrived by a cross-road at a great park situated in the little valley which separates the heights of Margency from the pretty village of Groslay. The countess there owned a charming house, in which the colonel saw, on arriving, all the conveniences necessary for his sojourn and that of his wife. Misfortune is a species of talisman, the virtue of which consists in strengthening our early constitution,—it augments the suspicions and the wickedness of certain men, as it increases the goodness of those who have an excellent heart.

Misfortune had rendered the colonel still better and more helpful than he had been, he was then able to appreciate the secret of those feminine sufferings which are unknown to the majority of men. Nevertheless, notwithstanding his want of suspicion, he could not prevent himself from saying to his wife:

“You were then very sure of bringing me here?”

“Yes,” she replied, “if I found Colonel Chabert in the client.”

The air of truthfulness which she was able to put into this reply dissipated the slight suspicions which the colonel was ashamed of having conceived. For three days, the countess was admirable in the company of her first husband. By tender cares and by her constant sweetness she seemed to wish to efface the memory of the sufferings which he had endured, and to procure her own forgiveness for the misfortunes which, as she admitted, she had innocently caused; she pleased herself by displaying before him—all the time causing him to perceive a sort of

melancholy—the charms to which she knew he was susceptible; for we are more peculiarly susceptible to certain fashions, to those graces of the heart or of the mind which we do not resist; she wished to interest him in her situation, to revive his tenderness sufficiently to take possession of his mind and dispose of him absolutely.

Resolved to stop at nothing to attain her ends, she did not yet know what she should do with this man, but certainly she desired to annihilate him socially. On the evening of the third day, she felt that, notwithstanding all her efforts, she could not keep concealed the mistrustfulness awakened in him as the result of her manœuvres. To give herself a moment of relaxation, she ascended to her own apartment, seated herself at her secretary, removed the mask of tranquillity which she kept on before Comte Chabert, like an actress who, returning fatigued to her dressing-room after a painful fifth act, falls weary and half dead in the room, leaving to the house an image of herself, which she no longer resembles. She set herself to finish a letter already commenced, addressed to Delbecq, to whom she wrote to go in her name and demand of Derville copies of the documents concerning Colonel Chabert, to copy them and to come immediately to her at Groslay. She had scarcely finished when she heard in the corridor the sound of the footsteps of the colonel who, anxious, had come in search of her.

“Alas!” she said aloud, “I would I were dead! My situation is intolerable—”

“Well, what is it that troubles you?” said the worthy man.

“Nothing, nothing,” she said.

She rose, left the colonel, and went down stairs to speak without any witnesses to her *femme de chambre*, whom she sent off to Paris, directing her to give with her own hand to Delbecq the letter which she had just written, and to bring it back to her as soon as he had read it. Then the countess went to seat herself on a bench where she could readily be seen so that the colonel could rejoin her as soon as he wished. The colonel, who was already looking for his wife, hastened to her and seated himself beside her.

“Rosine,” he said to her, “what is it that troubles you?”

She did not reply. The evening was one of those magnificent and calm ones, the hidden harmonies of which in the month of June impart

so much mildness to the sunsets. The air was pure and the silence profound, so much so that there could be heard in the distance in the park the voices of some children which added a kind of melody to the sublimities of the landscape.

"You do not answer me," said the colonel to his wife.

"My husband—" said the countess, who stopped, made a movement and interrupted herself to ask him, blushing as she did so,—“What shall I say in speaking of Monsieur le Comte Ferraud?”

"Call him your husband, my poor child," replied the colonel with a kindly tone; "is he not the father of your children?"

"Well," she resumed, "if monsieur asks me why I come here, if he learns that I have shut myself up here with an unknown man, what shall I say to him? Listen, monsieur," she went on, taking an attitude full of dignity, "decide my fate, I am resigned to anything—"

"My dear," said the colonel, taking his wife's hands in his own, "I have resolved to sacrifice myself entirely to your happiness—"

"That is impossible," she cried, with an involuntary convulsive movement. "Think of it, you would then have to renounce yourself, and in a formal manner—"

"How," said the colonel, "would not my word be sufficient for you?"

The word *formal* fell on the old man's heart and awakened in it involuntary mistrusts. He threw upon his wife a look which made her redden, she lowered her eyes, and he experienced a fear of being obliged to despise her. The countess was frightened at the possibility of having offended the untamed modesty, the severe probity of a man whose generous character, whose primitive virtues, were known to her. Although these thoughts darkened their brows for a moment, a good understanding was soon re-established between them. In this manner. The cry of a child re-echoed at a distance.

"Jules, let your sister alone!" cried the countess.

"What! your children are here?" said the colonel.

"Yes, but I have forbidden them to trouble you."

The old soldier comprehended the delicacy, the feminine tact, betrayed by so graceful a procedure, and took the hand of the countess to kiss it.

"Let them come," he said.

The little girl ran up to complain of her brother.

"Mamma!"

"Mamma!"

"It is he who—"

"It is she—"

The little hands were extended toward the mother, and the two infantile voices mingled. It was a picture, sudden and delightful.

"Poor children!" cried the countess, no longer restraining her tears, "I shall have to leave them; to whom will the courts award them? The heart of a mother cannot be divided, I want them myself!"

"Is it you who makes mamma cry?" said Jules, throwing an angry look on the colonel.

"Be still, Jules!" said the mother, imperiously.

The two children remained standing and silent, examining their mother and the stranger with a curiosity which it would be impossible to express in words.

"Oh! yes," she went on, "if I am separated from the count, may my children be left to me, and I will be resigned to everything—"

This was a decisive word, which was as completely successful as she had hoped.

"Yes," cried the colonel as if he were completing a phrase commenced inwardly, "I should go under ground again. I have already told myself so."

"Can I accept such a sacrifice?" replied the countess. "If some men have died to save their mistresses' honor, they have given their life but once. But, here, you would give your life every day! No, no, that is impossible. If it were only a question of your existence, that would be nothing; but to sign a declaration that you were not Colonel Chabert, to admit that you were an impostor, to give away your honor, to perpetrate a falsehood at every hour of the day, human devotion would not go so far as that. Think of it then! No. Were it not for my poor children, I would already have flown with you to the end of the world."

"But," replied Chabert, "can I not live here, in your little pavilion, as one of your relatives? I am as worn out as a condemned cannon, all I require is a little tobacco and the *Constitutionnel*."

The countess melted into tears. There ensued between the Comtesse Ferraud and the Colonel Chabert a contest of generosity from which the soldier issued victorious. One evening, seeing this mother with her children, the soldier was seduced by the touching graces of a family picture, in the country, in the shade and the silence; he took a resolution to remain dead, and no longer terrified at the formality of a declaration, he asked what measures he should take to irrevocably assure the happiness of this family.

"Do as you like!" replied the countess, "I declare to you that I will not take any part in this affair. I should not do so."

Delbecq had arrived a few days before, and, following the verbal instructions of the countess, the intendant had been able to gain the old soldier's confidence. On the following morning then, Colonel Chabert set off with the former attorney for Saint-Leu-Taverny, where Delbecq had caused to be drawn up by a notary, a declaration conceived in such blunt terms that the colonel burst fiercely out of the office after having heard it read.

"*Mille tonnerres!* I should be a pretty fellow! Why, I should pass for a forger!" he cried.

"Monsieur," said Delbercq to him, "I do not counsel you to sign too quickly. In your place, I would claim at least thirty thousand francs income for this declaration, for madame would give them."

After having overwhelmed this knave *emeritus* with the flaming look of an honest man indignant, the colonel fled, carried away by a thousand contradictory sentiments. He again became mistrustful, indignant and pacified alternately.

Finally he entered the park of Groslay by the breach in the wall, and proceeded by slow steps to rest himself and reflect at his ease in a cabinet arranged under a kiosk from which might be seen the road to Saint-Leu. The path being covered with that sort of yellowish earth which is substituted for the gravel of the river bed, the countess, who was seated in the little salon of this kind of pavilion, did not hear the colonel, for she was too much preoccupied with the success of her affair

to pay the slightest attention to the slight noise made by her husband. Neither did the old soldier perceive his wife in the little pavilion above him.

"Well, Monsieur Delbecq, did he sign?" asked the countess of her intendant whom she saw alone on the road, beyond the hedge of a ditch.

"No, madame. I do not even know what has become of our man. The old horse reared up."

"We shall have to end then by putting him in Charenton," she said, "since we hold him."

The colonel, who found again the elasticity of youth to leap the ditch, was before the intendant in a twinkling, and applied to him the most beautiful pair of cuffs that were ever received on the two cheeks of a *procureur*.

"Add that the old horses know how to kick!" he said to him.

This anger dissipated, the colonel no longer felt in him the strength to leap the ditch. Truth had shown herself in all her nakedness. The countess' speech and Delbecq's reply had unveiled the plot of which he was to have been the victim. The cares which had been lavished upon him were only a bait to lure him into a trap. This word was like a drop of some subtle poison which brought about in the old soldier the return of all his maladies physical and moral. He returned toward the kiosk by the gate of the park, walking slowly like a man overburdened. Then, neither peace nor truce for him! From this moment, it would be necessary to begin with this woman that odious warfare of which Derville had spoken to him, to enter upon a life of litigation, to find nourishment in gall, to drink each morning a cup of bitterness. Then, frightful thought, where was the money to be found to pay the expenses of the first suits? So great a disgust of life took possession of him that if there had been any water near him he would have thrown himself into it; if he had had any pistols he would have blown out his brains. Then he fell again into that uncertainty of ideas which, since his conversation with Derville at the house of the milk-dealer, had affected his mental faculties. Finally when he came to the kiosk he ascended into the little aërial cabinet through the rose windows of which could be seen each of the charming distant slopes of the valley, and where he found his wife seated in a chair. The countess was looking

at the landscape and preserved a calm countenance, guarding that impenetrable physiognomy which the women determined to dare all know how to assume. She wiped her eyes as if she had been weeping, and played absently with the long pink ribbon of her girdle. Nevertheless, despite her apparent assurance, she could not repress a shudder when she saw before her her venerable benefactor, upright, his arms crossed, his face pale, his brow severe.

“Madame,” he said, after having looked at her fixedly for a moment and caused her to blush, “madame, I do not curse you, I despise you. At present, I thank the chance that has disunited us. I do not even feel a desire for vengeance, I no longer love you. I wish for nothing from you. Live tranquilly on the faith of my word, it is worth more than the scrawlings of all the notaries in Paris. I will never claim again the name which I have perhaps made illustrious. I am no longer anything but a poor devil named Hyacinthe, who asks for nothing but his place in the sunshine. Adieu—”

The countess threw herself at the colonel’s feet and endeavored to retain him by taking his hands, but he repelled her with disgust, saying to her:

“Do not touch me.”

The countess made an untranslatable gesture when she heard the sound of her husband’s footsteps die away. Then, with the quick shrewdness which is given by deep villainy or the ferocious egotism of the world, she thought that she might live in peace under the promise and the contempt of this loyal soldier.

Chabert in fact disappeared. The milk-dealer failed and became a driver of a cabriolet. Perhaps the colonel took up at first with some vocation of the same kind. Perhaps, like a stone thrown into an abyss, he fell from cascade to cascade till he sank into that mud of rags which multiplies itself in the streets of Paris.

Six months after this event Derville, who had heard nothing more either of Colonel Chabert or of the Comtesse Ferraud, came to the conclusion that they had doubtless made some arrangement between themselves which in revenge the countess had had drawn up in some other office. Therefore, one morning he computed the sums advanced to the aforesaid Chabert, added the costs, and requested the Comtesse Ferraud

to procure from Monsieur le Comte Chabert this amount, presuming that she was aware of the whereabouts of her first husband.

The very next day the intendant of the Comte Ferraud, recently appointed president of an inferior court of civil causes in an important city, wrote to Derville this heart-breaking message:

“MONSIEUR,

“Madame la Comtesse Ferraud requests me to notify you that your client completely abused your confidence, and that the individual who called himself the Comte Chabert has admitted having unlawfully assumed a false character,

“Accept, etc.,

“DELBECQ.”

“There are to be met with people like this, upon my word of honor! really too stupid. They have stolen the very baptism,” cried Derville. “Be then humane, generous, philanthropic and an attorney, and you will be taken in! There is an affair which has cost me more than two notes of a thousand francs each.”

Some time after the receipt of this letter, Derville was looking in the Palais for an advocate to whom he wished to speak and who practised in the court of the correctional police. Chance directed it so that Derville entered the sixth court at the moment when the president condemned as a vagabond a prisoner named Hyacinthe to two months of prison, and ordered that he should afterward be conducted to the almshouse of Saint-Denis, a sentence which, in the jurisprudence of the prefects of police, is equivalent to a perpetual detention. On hearing the name of Hyacinthe, Derville looked at the culprit seated on the prisoners' bench between two gendarmes, and recognized in the condemned man his false Colonel Chabert.

The old soldier was calm, motionless, almost absent-minded. Notwithstanding his rags, notwithstanding the misery depicted upon his countenance, it seemed to have assumed a noble pride. His look had an expression of stoicism which a magistrate should not have misapprehended; but, as soon as a man falls into the hands of justice, he is no longer anything but a moral being, a question of law or of fact, as in the eyes of the statisticians, he becomes a figure. When the soldier was conducted back to the register office to be later carried away with

the batch of vagabonds who were then being tried, Derville, making use of the privilege of the attorneys to enter anywhere in the Palais, accompanied him to the register and looked at him for several moments, as well as at the curious assembly of beggars among whom he was placed. The antechamber of the register offered at this moment one of those spectacles which unfortunately neither the legislators, nor the philanthropists, nor the painters, nor the writers, come to study.

Like all the laboratories of fraud, this antechamber is a dark and evil-smelling apartment, the walls of which are adorned by a wooden bench blackened by the perpetual occupancy of the unfortunate who come to this rendezvous of all the social miseries, and at which not one of them is missing. A poet would have said that the light was ashamed to illuminate this terrible sewer through which pass so many misfortunes! There is not a single place in which is not seated some crime in the germ, or consummated; not a single spot in which might not be met some man who, driven to despair by the slight brand which justice had imprinted upon him for his first fault, had entered upon an existence at the end of which inevitably rose the guillotine, or exploded the suicide's pistol. All those who fall on the pavements of Paris are thrown against these yellow walls, on which a philanthropist who was not a speculator could decipher the justification of the numberless suicides of which the hypocritical writers complain, incapable of taking a step to prevent them, and which are written in this antechamber, a sort of prelude to the dramas of the morgue or to those of the Place de Grève.

At this moment, Colonel Chabert was seated in the midst of these men whose faces were marked by strong expressions, clothed in the horrible livery of misery, silent at intervals and when they did speak, doing so in low voices, for three gendarmes on duty walked up and down the room, making their sabres clank on the floor.

"Do you recognize me?" said Derville to the old soldier, placing himself before him.

"Yes, monsieur," replied Chabert, rising.

"If you are an honest man," Derville went on in a low voice, "how have you been able to remain my debtor?"

The old soldier reddened as might have done a young girl accused by her mother of some clandestine love.

"What! Madame Ferraud has not paid you?" he cried aloud.

"Paid me?—" said Derville. "She wrote me that you were an adventurer."

The colonel lifted his eyes by a sublime movement of horror and of imprecation, as if to appeal to Heaven against this new deceit.

"Monsieur," he said in a voice grown calm again, "procure from the gendarmes the favor of allowing me to enter the register room, I will sign for you a draft which will certainly be honored."

With a word from Derville to the brigadier, he was permitted to take his client into the registry, where Hyacinthe wrote a few lines addressed to the Comtesse Ferraud.

"Send that to her," said the soldier, "and you will be reimbursed for your expenses and your advances. Believe me, monsieur, if I have not testified to you the gratitude which I owe you for your good offices, it is none the less there," he said, laying his hand on his heart. "Yes, it is there, full and complete. But what can the unhappy do? They can love, that is all."

"How is it," said Derville to him, "that you did not stipulate for some income?"

"Do not speak to me of that!" replied the old soldier. "You cannot know to what depth descends my contempt for that outward life to which most men attach so much importance. I was suddenly seized with a malady, the disgust of humanity. When I think that Napoléon is at Saint Helena, everything here below is indifferent to me. I can no longer be a soldier, that is all my unhappiness. In short," he added, making a gesture like a child's, "it is better to have luxury in your sentiments than on your clothes. For myself I fear nobody's contempt."

And the colonel returned to his place on his bench.

Derville went out. When he returned to his office, he sent Godeschal, then his second clerk, to the house of the Comtesse Ferraud, who, on reading the note, caused to be paid immediately to the attorney the sum due him from the Comte Chabert.

In 1840, toward the end of the month of June, Godeschal, then an attorney, went with Derville, his predecessor, to Ris. When they arrived at the avenue which leads from the high road to Bicêtre, they per-

ceived under one of the elms of the road, one of those old hoary and broken men who have obtained the baton of marshal of the mendicants, living at Bicêtre as the indigent females live at the Salpêtrière. This man, one of the two thousand unfortunates lodged in the hospital of the *Vieillesse*, was seated on a curbstone and appeared to be concentrating all his intelligence on an operation very familiar to these pensioners, and which consists in drying in the sun the tobacco of their snuffy handkerchiefs, perhaps to avoid bleaching them. This old man had an interesting countenance. He was clothed in that gown of reddish cloth which the hospital accords to its inmates, a sort of hideous livery.

"See, Derville," said Godeschal to his traveling companion, "look at that old man. Does he not resemble those queer grotesques that we get from Germany? And that is living, and that is perhaps happy!"

Derville took his eyeglass, looked at the pauper, made an involuntary gesture of surprise and said:

"That old man, my dear fellow, is a complete poem, or, as the romantics say, a drama. Have you not occasionally met the Comtesse Ferraud—?"

"Yes, she is a clever woman and very agreeable; but a little too pious," said Godeschal.

"This old inmate of the Bicêtre is her legitimate husband, the Comte Chabert, the former colonel; she has doubtless placed him there. If he is in this asylum, instead of inhabiting a hôtel, it is solely because he recalled to the pretty Comtesse Ferraud that he had taken her, like a hackney coach, on the public street. I remember still the look of a tigress which she threw upon him at that moment."

This prelude having excited Godeschal's curiosity, Derville related to him the preceding history. Two days later, on the Monday morning, on returning to Paris, the two friends looked over at Bicêtre, and Derville proposed to go and see Colonel Chabert.

Halfway up the avenue they found the old man seated on the stump of a fallen tree, holding a stick in his hand and amusing himself by drawing lines in the sand. On looking at him closely, they perceived that he had been breakfasting elsewhere than in the establishment.

"Good day, Colonel Chabert," said Derville to him.

“Not Chabert! not Chabert! my name is Hyacinthe,” replied the old man. “I am no longer a man, I am number 164, seventh ward,” he added, looking at Derville with a timorous anxiety, with the fear of an old man and of a child. “You have come to see the man condemned to death?” he said, after a moment of silence. “He is not married, he! He is very fortunate.”

“Poor man,” said Godeschal. “Would you like some money to buy tobacco?”

The colonel held out his hand eagerly to each of the strangers, with all the ingenuousness of a Paris street Arab. They each gave him a twenty-franc piece, and he thanked them with a stupid look, saying:

“Brave troopers!”

He “carried arms” with his stick, feigned to take aim at them, and cried, smiling:

“Salute of two guns! *vive Napoléon!*”

And he described with his cane in the air an imaginary arabesque.

“The nature of his wound has made him fall into second childishness,” said Derville.

“He a child!” cried an old Bicêtrian who was looking at them. “Ah! there are days when it is not safe to tread on his toes. He is a shrewd old fellow, full of philosophy and of imagination. But to-day, what can you expect! this is his Monday. Monsieur, in 1820, he was already here. At that time, a Prussian officer, whose calèche was ascending the hill Villejuif, came along on foot. We were, we two, Hyacinthe and I, on the roadside. This officer was talking as he walked with another, with a Russian, or some animal of that kind, and when he saw this old fellow, the Prussian, a sort of a gabbler, said to him, ‘There is an old voltigeur who must have been at Rosbach.’ ‘I was too young to be there,’ he answered promptly, but I was old enough to find myself at Jena. Whereupon the Prussian slunk off, without asking any more questions.”

“What a destiny!” cried Derville. “Come out of a foundling asylum, he returns to die in an old men’s home, after having, in the interval, aided Napoléon to conquer Egypt and Europe.—Do you know, my dear fellow,” resumed Derville after a pause, “that there exist in our society three men, the priest, the doctor and the man of law, who can form

no just estimate of the world? They wear black robes, perhaps because they wear mourning for all the virtues, all the illusions. The most unfortunate of them all is the attorney. When a man comes in search of the priest, he comes to him urged on by repentance, by remorse, by those beliefs which render him interesting, which enlarge him, and which bring some consolation to the soul of the mediator, whose task is not without a sort of enjoyment; he purifies, he repairs and reconciles. But, we attorneys, we see the same evil sentiments repeating themselves, nothing corrects them, our offices are sewers that cannot be cleansed. How many things have I not learned while practising my profession! I have seen a father die in a garret, without a sou or a stitch, abandoned by two daughters to whom he had given forty thousand francs of income! I have seen wills burned; I have seen mothers despoiling their children, husbands robbing their wives, wives killing their husbands by making use of the love which they inspired in them to render them foolish or imbecile, so that they might live in peace with a lover. I have seen women giving to a child by a first marriage tastes and habits which would bring about its death, so as to enrich a love-child. I cannot tell you all that I have seen, for I have seen crimes against which justice is powerless. In short, all the horrors which the romancers have been able to invent, are still below the truth. You are going to encounter all these pretty things, yourself; for my part, I am going to live in the country with my wife. Paris fills me with horror."

"I have already seen some of these things in Desroches' office," replied Godeschal.

Paris. February-March, 1832.

HONORÉ DE BALZAC

THE EXECUTIONER

A unique kind of punishment for rebellion against a conquering power is the legal setting for this story of an episode during the French occupation of Spain in the time of Napoleon I. It is narrated with the grandeur of style and psychological refinement that are identified with the genius of Balzac.

MIDNIGHT had just sounded from the belfry tower of the little town of Menda. A young French officer, leaning over the parapet of the long terrace at the further end of the castle gardens, seemed to be unusually absorbed in deep thought for one who led the reckless life of a soldier; but it must be admitted that never was the hour, the scene, and the night more favourable to meditation.

The blue dome of the cloudless sky of Spain was overhead; he was looking out over the coy windings of a lovely valley lit by the uncertain starlight and the soft radiance of the moon. The officer, leaning against an orange tree in blossom, could also see, a hundred feet below him, the town of Menda, which seemed to nestle for shelter from the north wind at the foot of the crags on which the castle itself was built. He turned his head and caught sight of the sea; the moonlit waves made a broad frame of silver for the landscape.

There were lights in the castle windows. The mirth and movement of a ball, the sounds of the violins, the laughter of the officers and their partners in the dance were borne towards him and blended with the far-off murmur of the waves. The cool night had a certain bracing effect upon his frame, wearied as he had been by the heat of the day. He seemed to bathe in the air, made fragrant by the strong, sweet scent of flowers and of aromatic trees in the gardens.

The castle of Menda belonged to a Spanish grandee, who was living in it at that time with his family. All through the evening the oldest daughter of the house had watched the officer with such a wistful interest that the Spanish lady's compassionate eyes might well have set the young Frenchman dreaming. Clara was beautiful; and although she had three brothers and a sister, the broad lands of the Marqués de

Légañès appeared to be sufficient warrant for Victor Marchand's belief that the young lady would have a splendid dowry. But how could he dare to imagine that the most fanatical believer in blue blood in all Spain would give his daughter to the son of a grocer in Paris? Moreover, the French were hated. It was because the Marquis had been suspected of an attempt to raise the country in favor of Ferdinand VII. that General G——, who governed the province, had stationed Victor Marchand's battalion in the little town of Menda to overawe the neighbouring districts which received the Marqués de Légañès' word as law. A recent despatch from Marshal Ney had given ground for fear that the English might ere long effect a landing on the coast, and had indicated the Marquis as being in correspondence with the Cabinet in London.

In spite, therefore, of the welcome with which the Spaniards had received Victor Marchand and his soldiers, that officer was always on his guard. As he went towards the terrace, where he had just surveyed the town and the districts confided to his charge, he had been asking himself what construction he ought to put upon the friendliness which the Marquis had invariably shown him, and how to reconcile the apparent tranquility of the country with his general's uneasiness. But a moment later these thoughts were driven from his mind by the instinct of caution and very legitimate curiosity. It had just struck him that there was a very fair number of lights in the town below. Although it was the Feast of Saint James, he himself had issued orders that very morning that all lights must be put out in the town at the hour prescribed by military regulations. The castle alone had been excepted in this order. Plainly here and there he saw the gleam of bayonets, where his own men were at their accustomed posts; but in the town there was a solemn silence, and not a sign that the Spaniards had given themselves up to the intoxication of a festival. He tried vainly for a while to explain this breach of the regulations on the part of the inhabitants; the mystery seemed but so much the more obscure because he had left instructions with some of his officers to do police duty that night, and make the rounds of the town.

With the impetuosity of youth, he was about to spring through a gap in the wall preparatory to a rapid scramble down the rocks, thinking to reach a small guard-house at the nearest entrance into the town more

quickly than by the beaten track, when a faint sound stopped him. He fancied that he could hear the light footstep of a woman along the graveled garden walk. He turned his head and saw no one; for one moment his eyes were dazzled by the wonderful brightness of the sea, the next he saw a sight so ominous that he stood stock-still with amazement, thinking that his senses must be deceiving him. The white moonbeams lighted the horizon, so that he could distinguish the sails of ships still a considerable distance out at sea. A shudder ran through him; he tried to persuade himself that this was some optical delusion brought about by chance effects of moonlight on the waves; and even as he made the attempt, a hoarse voice called to him by name. The officer glanced at the gap in the wall; saw a soldier's head slowly emerge from it, and knew the grenadier whom he had ordered to accompany him to the castle.

"It that you, commandant?"

"Yes. What is it?" returned the young officer in a low voice. A kind of presentiment warned him to act cautiously.

"Those beggars down there are creeping about like worms; and, by your leave, I came as quickly as I could to report my little reconnoitring expedition."

"Go on," answered Victor Marchand.

"I have just been following a man from the castle who came round this way with a lantern in his hand. A lantern is a suspicious matter with a vengeance! I don't imagine that there was any need for that good Christian to be lighting tapers at this time of night. Says I to myself, 'They mean to gobble us up!' and I set myself to dogging his heels; and that is how I found out that there is a pile of faggots, sir, two or three steps away from here."

Suddenly a dreadful shriek rang through the town below, and cut the man short. A light flashed in the commandant's face, and the poor grenadier dropped down with a bullet through his head. Ten paces away a bonfire flared up like a conflagration. The sounds of music and laughter ceased all at once in the ballroom; the silence of death, broken only by groans, succeeded to the rhythmical murmur of the festival. Then the roar of cannon sounded from across the white plain of the sea.

A cold sweat broke out on the young officer's forehead. He had left his sword behind. He knew that his men had been murdered, and that the English were about to land. He knew that if he lived he would be dishonoured; he saw himself summoned before a court-martial. For a moment his eyes measured the depth of the valley, the next, just as he was about to spring down, Clara's hand caught his.

"Fly!" she cried. "My brothers are coming after me to kill you. Down yonder at the foot of the cliff you will find Juanito's Andalusian. Go!"

She thrust him away. The young man gazed at her in dull bewilderment; but obeying the instinct of self-preservation, which never deserts even the bravest, he rushed across the park in the direction pointed out to him, springing from rock to rock in places unknown to any save the goats. He heard Clara calling to her brothers to pursue him; he heard the footsteps of the murderers; again and again he heard their balls whistling about his ears; but he reached the foot of the cliff, found the horse, mounted, and fled with lightning speed.

A few hours later the young officer reached General G——'s quarters, and found him at dinner with the staff.

"I put my life in your hands!" cried the haggard and exhausted commandant of Menda.

He sank into a seat, and told his horrible story. It was received with an appalling silence.

"It seems to me that you are more to be pitied than to blame," the terrible general said at last. "You are not answerable for the Spaniard's crimes, and, unless the marshall decides otherwise, I acquit you."

These words brought but cold comfort to the unfortunate officer.

"When the Emperor comes to hear about it!" he cried.

"Oh, he will be for having you shot," said the general, "but we shall see. Now we will say no more about this," he added severely, "except to plan a revenge that shall strike a salutary terror into this country, where they carry on war like savages."

An hour later a whole regiment, a detachment of cavalry, and a convoy of artillery were upon the road. The general and Victor marched at the head of the column. The soldiers had been told of the fate of

their comrades, and their rage knew no bounds. The distance between headquarters and the town of Menda was crossed at a wellnigh miraculous speed. Whole villages by the way were found to be under arms; every one of the wretched hamlets was surrounded and their inhabitants decimated.

It so chanced that the English vessels still lay out at sea, and were no nearer the shore, a fact inexplicable until it was known afterwards that they were artillery transports which had outsailed the rest of the fleet. So the townsmen of Menda, left without the assistance on which they had reckoned when the sails of the English appeared, were surrounded by French troops almost before they had had time to strike a blow. This struck such terror into them that they offered to surrender at discretion: An impulse of devotion, no isolated instance in the history of the Peninsula, led the actual slayers of the French to offer to give themselves up; seeking in this way to save the town, for from the general's reputation for cruelty it was feared that he would give Menda over to the flames, and put the whole population to the sword. General G—— took their offer, stipulating that every soul in the castle from the lowest servant to the Marquis should likewise be given up to him. These terms being accepted, the general promised to spare the lives of the rest of the townsmen, and to prohibit his soldiers from pillaging or setting fire to the town. A heavy contribution was levied, and the wealthiest inhabitants were taken as hostages to guarantee payment within twenty-four hours.

The general took every necessary precaution for the safety of his troops, provided for the defense of the place, and refused to billet his men in the houses of the town. After they had bivouacked, he went up to the castle and entered it as a conqueror. The whole family of Légañès and their household were gagged, shut up in the great ballroom, and closely watched. From the windows it was easy to see the whole length of the terrace above the town.

The staff was established in an adjoining gallery, where the general forthwith held a council as to the best means of preventing the landing of the English. An aide-de-camp was despatched to Marshal Ney, orders were issued to plant batteries along the coast, and then the general and his staff turned their attention to their prisoners. The two hundred Spaniards given up by the townsfolk were shot down then and there upon

the terrace. And after this military execution, the general gave orders to erect gibbets to the number of the prisoners in the ballroom in the same place, and to send for the hangman out of the town. Victor took advantage of the interval before dinner to pay a visit to the prisoners. He soon came back to the general.

"I am come in haste," he faltered out, "to ask a favour."

"*You!*" exclaimed the general, with bitter irony in his tones.

"Alas!" answered Victor, "it is a sorry favor. The Marquis has seen them erecting the gallows, and hopes that you will commute the punishment for his family; he entreats you to have the nobles beheaded."

"Granted," said the general.

"He further asks that they may be allowed the consolations of religion, and that they may be unbound; they give you their word that they will not attempt to escape."

"That I permit," said the general, "but you are answerable for them."

"The old noble offers you all that he has if you will pardon his youngest son."

"Really!" cried the commander. "His property is forfeited already to King Joseph." He paused; a contemptuous thought set wrinkles in his forehead, as he added, "I will do better than they ask. I understand what he means by that last request of his. Very good. Let him hand down his name to posterity; but whenever it is mentioned, all Spain shall remember his treason and its punishment! I will give the fortune and his life to any one of the sons who will do the executioner's office. There, don't talk any more about them to me."

Dinner was ready. The officers sat down to satisfy an appetite whetted by hunger. Only one among them was absent from the table—that one was Victor Marchand. After long hesitation, he went to the ballroom, and heard the last sighs of the proud house of Légañès. He looked sadly at the scene before him. Only last night, in this very room, he had seen their faces whirl past him in the waltz, and he shuddered to think that those girlish heads with those of the three young brothers must fall in a brief space by the executioner's sword. There sat the father and mother, their three sons and two daughters, perfectly motionless, bound

to their gilded chairs. Eight serving-men stood with their hands tied behind them. These fifteen prisoners, under sentence of death, exchanged grave glances; it was difficult to read the thoughts that filled them from their eyes, but profound resignation and regret that their enterprise should have failed so completely was written on more than one brow.

The impassive soldiers who guarded them respected the grief of their bitter enemies. A gleam of curiosity lighted up all faces when Victor came in. He gave orders that the condemned prisoners should be unbound, and himself unfastened the cords that held Clara a prisoner. She smiled mournfully at him. The officer could not refrain from lightly touching the young girl's arm; he could not help admiring her dark hair, her slender waist. She was a true daughter of Spain, with a Spanish complexion, a Spaniard's eyes, blacker than the raven's wing beneath their long curving lashes.

"Did you succeed?" she asked, with a mournful smile, in which a certain girlish charm still lingered.

Victor could not repress a groan. He looked from the faces of the three brothers to Clara, and again at the three young Spaniards. The first, the oldest of the family, was a man of thirty. He was short, and somewhat ill made; he looked haughty and proud, but a certain distinction was not lacking in his bearing, and he was apparently no stranger to the delicacy of feeling for which in olden times the chivalry of Spain was famous. His name was Juanito. The second son, Felipe, was about twenty years of age; he was like his sister Clara; and the youngest was a child of eight. In the features of little Manuel a painter would have discerned something of that Roman steadfastness which David has given to the children's faces in his Republican *genre* pictures. The old Marquis, with his white hair, might have come down from some canvas of Murillo's. Victor threw back his head in despair after this survey; how should one of these accept the general's offer! nevertheless he ventured to intrust it to Clara. A shudder ran through the Spanish girl, but she recovered herself almost instantly, and knelt before her father.

"Father," she said, "bid Juanito swear to obey the commands that you shall give him, and we shall be content."

The Marquesa trembled with hope, but as she leaned towards her husband and learned Clara's hideous secret the mother fainted away.

Juanito understood it all, and leaped up like a caged lion. Victor took it upon himself to dismiss the soldiers, after receiving an assurance of entire submission from the Marquis. The servants were led away and given over to the hangman and their fate. When only Victor remained on guard in the room, the old Marqués de Légañès rose to his feet.

"Juanito," he said. For all answer Juanito bowed his head in a way that meant refusal; he sank down into his chair, and fixed tearless eyes upon his father and mother in an intolerable gaze. Clara went over to him and sat on his knee; she put her arms about him, and pressed kisses on his eyelids, saying gaily—

"Dear Juanito, if you but knew how sweet death at your hands will be to me! I shall not be compelled to submit to the hateful touch of the hangman's fingers. You will snatch me away from the evils to come and—— Dear, kind Juanito, you could not bear the thought of my belonging to any one—well, then?"

The velvet eyes gave Victor a burning glance; she seemed to try to awaken in Juanito's heart his hatred for the French.

"Take courage," said his brother Felipe, "or our wellnigh royal line will be extinct."

Suddenly Clara sprang to her feet. The group round Juanito fell back, and the son who had rebelled with such good reason was confronted with his aged father.

"Juanito, I command you!" said the Marquis solemnly.

The young Count gave no sign, and his father fell on his knees; Clara, Manuel, and Felipe unconsciously followed his example, stretching out suppliant hands to him who must save their family from oblivion, and seeming to echo their father's words.

"Can it be that you lack the fortitude of a Spaniard and true sensibility, my son? Do you mean to keep me on my knees? What right have you to think of your own life and of your own sufferings? Is this my son, madame?" the old Marquis added, turning to his wife.

"He will consent to it," cried the mother in agony of soul. She had seen a slight contraction of Juanito's brows which she, his mother, alone understood.

Mariquita, the second daughter, knelt, with her slender clinging arms about her mother; the hot tears fell from her eyes, and her little brother

Manuel upbraided her for weeping. Just at that moment the castle chaplain came in; the whole family surrounded him and led him up to Juanito. Victor felt that he could endure the sight no longer, and with a sign to Clara he hurried from the room to make one last effort for them. He found the general in boisterous spirits; the officers were still sitting over their dinner and drinking together; the wine had loosened their tongues.

An hour later, a hundred of the principal citizens of Menda were summoned to the terrace by the general's orders to witness the execution of the family of Légañès. A detachment had been told off to keep order among the Spanish townsfolk, who were marshaled beneath the gallows whereon the Marquis' servants hung; the feet of those martyrs of their cause all but touched the citizens' heads. Thirty paces away stood the block; the blade of a scimitar glittered upon it, and the executioner stood by in case Juanito should refuse at the last.

The deepest silence prevailed, but before long it was broken by the sound of many footsteps, the measured tramp of a picket of soldiers, and the jingling of their weapons. Mingled with these came other noises—loud talk and laughter from the dinner-table where the officers were sitting; just as the music and the sound of the dancers' feet had drowned the preparations for last night's treacherous butchery.

All eyes turned to the castle, and beheld the family of nobles coming forth with incredible composure to their death. Every brow was serene and calm. One alone among them, haggard and overcome, leaned on the arm of the priest, who poured forth all the consolations of religion for the one man who was condemned to live. Then the executioner, like the spectators, knew that Juanito had consented to perform his office for a day. The old Marquis and his wife, Clara and Mariquita, and their two brothers knelt a few paces from the fatal spot. Juanito reached it, guided by the priest. As he stood at the block, the executioner plucked him by the sleeve, and took him aside, probably to give him certain instructions. The confessor so placed the victims that they could not witness the executions, but one and all stood upright and fearless, like Spaniards, as they were.

Clara sprang to her brother's side before the others.

"Juanito," she said to him, "be merciful to my lack of courage. Take me first!"

As she spoke, the footsteps of a man running at full speed echoed from the walls, and Victor appeared upon the scene. Clara was kneeling before the block; her white neck seemed to appeal to the blade to fall. The officer turned faint, but he found strength to rush to her side.

"The general grants you your life if you will consent to marry me," he murmured.

The Spanish girl gave the officer a glance full of proud disdain.

"Now, Juanito!" she said in her deep-toned voice.

Her head fell at Victor's feet. A shudder ran through the Marquesa de Légañès, a convulsive tremor that she could not control, but she gave no other sign of her anguish.

"Is this where I ought to be, dear Juanito? Is it all right?" little Manuel asked his brother.

"Oh, Mariquita, you are weeping!" Juanito said when his sister came.

"Yes," said the girl; "I am thinking of you, poor Juanito; how unhappy you will be when we are gone."

Then the Marquis' tall figure approached. He looked at the block where his children's blood had been shed, turned to the mute and motionless crowd, and said in a loud voice as he stretched out his hands to Juanito.

"Spaniards! I give my son a father's blessing. Now, *Marquis*, strike 'without fear;' thou art 'without reproach.' "

But when his mother came near, leaning on the confessor's arm—"She fed me from her breast!" Juanito cried in tones that drew a cry of horror from the crowd. The uproarious mirth of the officers over their wine died away before that terrible cry. The Marquesa knew that Juanito's courage was exhausted; at one bound she sprang to the balustrade, leaped forth, and was dashed to pieces on the rocks below. A cry of admiration broke from the spectators. Juanito swooned.

"General," said an officer, half-drunk by this time, "Marchand has just been telling me something about this execution; I will wager that it was not by your orders."

“Are you forgetting, gentlemen, that in a month’s time five hundred families in France will be in mourning, and that we are still in Spain?” cried General G——. “Do you want us to leave our bones here?”

But not a man at the table, not even a subaltern, dared to empty his glass after that speech.

In spite of the respect in which all men hold the Marqués de Légañès, in spite of the title of *El Verdugo* (the executioner) conferred upon him as a patent of nobility by the King of Spain, the great noble is consumed by a gnawing grief. He lives a retired life, and seldom appears in public. The burden of his heroic crime weighs heavily upon him, and he seems to wait impatiently till the birth of a second son shall release him, and he may go to join the Shades that never cease to haunt him.

HERMAN MELVILLE

BILLY BUDD, FORETOPMAN

Herman Melville, called by some the finest of all American novelists, is best known for the towering novel, *Moby Dick*. Of perhaps greater interest to lawyers, however, is his novelette, *Billy Budd*. Completed in the year of Melville's death, 1891, the work was published for the first time in 1924. It is the gripping story of a court martial conducted on a British ship at a remote period of history. While *Moby Dick* centers on one symbolic character, that of the fanatically single-minded Captain Ahab, *Billy Budd* contains two central figures, each representing a symbolic extreme; the almost angelic Billy Budd, and the diabolic John Claggart. In our effort to present this story with authenticity, we have retained the original English language text as used by Melville and reprinted in the Harvard University Press edition, 1948.

Dedicated to
Jack Chace, Englishman
Wherever that great heart may now be,
Here on earth or harbored in Paradise,
Captain of the Main-Top in the year 1843
in the U. S. Frigate *United States*

PREFACE

THE YEAR 1797, the year of this narrative, belongs to a period which, as every thinker now feels, involved a crisis for Christendom not exceeded in its undetermined momentousness at the time by any other era whereof there is record. The opening proposition made by the Spirit of that Age involved rectification of the Old World's hereditary wrongs. In France, to some extent, this was bloodily effected. But what then? Straightway the Revolution itself became a wrongdoer, one more oppressive than the Kings. Under Napoleon it enthroned upstart kings, and initiated that prolonged agony of continual war whose final throe was Waterloo. During those years not the wisest could have foreseen that the outcome of all would be what to some thinkers apparently it has since turned out to be—a political advance along nearly the whole line for Europeans.

Now, as elsewhere hinted, it was something caught from the Revolutionary Spirit that at Spithead emboldened the man-of-war's men to rise against real abuses, long-standing ones, and afterwards at the Nore to make inordinate and aggressive demands—successful resistance to which was confirmed only when the ringleaders were hung for an admonitory spectacle to the anchored fleet. Yet, in a way analogous to the operation of the Revolution at large, the Great Mutiny, though by Englishmen naturally deemed monstrous at the time, doubtless gave the first latent prompting to most important reforms in the British navy.

1

In the time before steamships, or then more frequently than now, a stroller along the docks of any considerable sea-port would occasionally

have his attention arrested by a group of bronzed mariners, man-of-war's men or merchant-sailors in holiday attire ashore on liberty. In certain instances they would flank, or, like a bodyguard, quite surround, some superior figure of their own class, moving along with them like Aldebaran among the lesser lights of his constellation. That signal object was the "Handsome Sailor" of the less prosaic time alike of the military and merchant navies. With no perceptible trace of the vainglorious about him, rather with the offhand unaffectedness of natural regality, he seemed to accept the spontaneous homage of his shipmates. A somewhat remarkable instance recurs to me. In Liverpool, now half a century ago, I saw under the shadow of the great dingy street-wall of Prince's Dock (an obstruction long since removed) a common sailor, so intensely black that he must needs have been a native African of the unadulterate blood of Ham. A symmetric figure much above the average height. The two ends of a gay silk handkerchief thrown loose about the neck danced upon the displayed ebony of his chest; in his ears were big hoops of gold, and a Scotch Highland bonnet with a tartan band set off his shapely head.

It was a hot noon in July, and his face, lustrous with perspiration, beamed with barbaric good humor. In jovial sallies right and left, his white teeth flashing into view, he rollicked along, the centre of a company of his shipmates. These were made up of such an assortment of tribes and complexions as would have well fitted them to be marched up by Anacharsis Cloots before the bar of the first French Assembly as Representatives of the Human Race. At each spontaneous tribute rendered by the wayfarers to this black pagoda of a fellow—the tribute of a pause and stare, and less frequent an exclamation—the motley retinue showed that they took that sort of pride in the evoker of it which the Assyrian priests doubtless showed for their grand sculptured Bull when the faithful prostrated themselves.

To return.

If in some cases a bit of a nautical Murat in setting forth his person ashore, the handsome sailor of the period in question evinced nothing of the dandified Billy-be-Dam, an amusing character all but extinct now, but occasionally to be encountered, and in a form yet more amusing than the original, at the tiller of the boats on the tempestuous Erie Canal, or,

more likely, vapping in the grogeries along the towpath. Invariably, a proficient in his perilous calling, he was also more or less of a mighty boxer or wrestler. It was strength and beauty. Tales of his prowess were recited. Ashore he was the champion, afloat the spokesman; on every suitable occasion always foremost. Close-reefing topsails in a gale, there he was, astride the weather yard-arm-end, foot in the Flemish horse as "stirrup," both hands tugging at the "earring" as at a bridle, in very much the attitude of young Alexander curbing the fiery Bucephalus. A superb figure, tossed up as by the horns of Taurus against the thunderous sky, cheerily hallooing to the strenuous file along the spar.

The moral nature was seldom out of keeping with the physical make. Indeed, except as toned by the former, the comeliness and power, always attractive in masculine conjunction, hardly could have drawn the sort of honest homage the Handsome Sailor in some examples received from his less gifted associates.

Such a cynosure, at least in aspect, and something such too in nature, though with important variations made apparent as the story proceeds, was welkin-eyed Billy Budd, or Baby Budd as more familiarly under circumstances hereafter to be given he at last came to be called, aged twenty-one, a foretopman of the British fleet toward the close of the last decade of the eighteenth century. It was not very long prior to the time of the narration that follows that he had entered the King's Service, having been impressed on the Narrow Seas from a homeward-bound English merchantman into a seventy-four outward-bound, H.M.S. *Indomitable*; which ship, as was not unusual in those hurried days having been obliged to put to sea short of her proper complement of men. Plump upon Billy at first sight in the gangway the boarding officer Lieutenant Ratcliffe pounced, even before the merchantman's crew was formally mustered on the quarter-deck for his deliberate inspection. And him only he elected. For whether it was because the other men when ranged before him showed to ill advantage after Billy, or whether he had some scruples in view of the merchantman being rather short-handed, however it might be, the officer contented himself with his first spontaneous choice. To the surprise of the ship's company, though much to the lieutenant's satisfaction, Billy made no demur. But, indeed, any demur would have been as idle as the protest of a goldfinch popped into a cage.

Noting this uncomplaining acquiescence, all but cheerful one might say, the shipmates turned a surprise glance of silent reproach at the sailor. The shipmaster was one of those worthy mortals found in every vocation, even the humbler ones—the sort of person whom everybody agrees in calling “a respectable man.” And—nor so strange to report as it may appear to be—though a plowman of the troubled waters, lifelong contending with the intractable elements, there was nothing this honest soul at heart loved better than simple peace and quiet. For the rest, he was fifty or thereabouts, a little inclined to corpulence, a prepossessing face, unwhiskered, and of an agreeable color—a rather full face, humanely intelligent in expression. On a fair day with a fair wind and all going well, a certain musical chime in his voice seemed to be the veritable unobstructed outcome of the innermost man. He had much prudence, much conscientiousness, and there were occasions when these virtues were the cause of overmuch disquietude in him. On a passage, so long as his craft was in any proximity to land, no sleep for Captain Graveling. He took to heart those serious responsibilities not so heavily borne by some shipmasters.

Now while Billy Budd was down in the forecastle getting his kit together, the *Indomitable's* lieutenant, burly and bluff, nowise disconcerted by Captain Graveling's omitting to proffer the customary hospitalities on an occasion so unwelcome to him, an omission simply caused by preoccupation of thought, unceremoniously invited himself into the cabin, and also to a flask from the spirit-locker, a receptacle which his experienced eye instantly discovered. In fact he was one of those sea dogs in whom all the hardship and peril of naval life in the great prolonged wars of his time never impaired the natural instinct for sensuous enjoyment. His duty he always faithfully did; but duty is sometimes a dry obligation, and he was for irrigating its aridity, whenever possible, with a fertilizing decoction of strong waters. For the cabin's proprietor there was nothing left but to play the part of the enforced host with whatever grace and alacrity were practicable. As necessary adjuncts to the flask, he silently placed tumbler and water-jug before the irrepressible guest. But excusing himself from partaking just then, he dismally watched the unembarrassed officer deliberately diluting his grog a little, then tossing it off in three swallows, pushing the empty tumbler away, yet not so far as to be beyond easy reach, at the same time

settling himself in his seat and smacking his lips with high satisfaction, looking straight at the host.

These proceedings over, the master broke the silence, and there lurked a rueful reproach in the tone of his voice: "Lieutenant, you are going to take my best man from me, the jewel of 'em."

"Yes, I know," rejoined the other, immediately drawing back the tumbler preliminary to a replenishing. "Yes, I know. Sorry."

"Beg pardon, but you don't understand, Lieutenant. See here now. Before I shipped that young fellow, my forecastle was a rat-pit of quarrels. It was black times, I tell you aboard the *Rights* here. I was worried to that degree my pipe had no comfort for me. But Billy came, and it was like a Catholic priest striking peace in an Irish shindy. Not that he preached to them or said or did anything in particular, but a virtue went out of him, sugaring the sour ones. They took to him like hornets to treacle; all but the buffer of the gang, the big shaggy chap with the fire-red whiskers. He indeed, out of envy, perhaps, of the newcomer, and thinking such a 'sweet and pleasant fellow,' as he mockingly designated him to the others, could hardly have the spirit of a gamecock, must needs bestir himself in trying to get up an ugly row with him. Billy forebore with him and reasoned with him in a pleasant way—he is something like myself, Lieutenant, to whom aught like a quarrel is hateful—but nothing served. So, in the second dog watch one day the Red Whiskers, in presence of the others, under pretense of showing Billy just whence a sirloin steak was cut—for the fellow had once been a butcher—insultingly gave him a dig under the ribs. Quick as lightning Billy let fly his arm. I dare say he never meant to do quite as much as he did, but anyhow he gave the burly fool a terrible drubbing. It took about half a minute, I should think. And, lord bless you, the lubber was astonished at the celerity. And will you believe it, Lieutenant, the Red Whiskers now really loves Billy—loves him, or is the biggest hypocrite that ever I heard of. But they all love him. Some of 'em do his washing, darn his old trousers for him; the carpenter is at odd times making a pretty little chest of drawers for him. Anybody will do anything for Billy Budd; and it's the happy family here. But now, Lieutenant, if that young fellow goes—I know how it will be aboard the *Rights*. Not again very soon shall I, coming up from dinner, lean over the capstan smoking a quiet pipe—no, not

very soon again, I think. Aye, Lieutenant, you are going to take away the jewel of 'em; you are going to take away my peacemaker!" And with that the good soul had really some ado in checking a rising sob.

"Well," said the officer, who had listened with amused interest to all this, and now waxing merry with his tippie, "well, blessed are the peacemakers, especially the fighting peacemakers! And such are the seventy-four beauties some of which you see poking their noses out of the port-holes of yonder war-ship lying to for me," pointing through the cabin window at the *Indomitable*. "But courage! don't you look so down-hearted, man. Why, I pledge you in advance the royal approbation. Rest assured that His Majesty will be delighted to know that in a time when his hard tack is not sought for by sailors with such avidity as should be, a time also when some shipmasters privily resent the borrowing from them a tar or two for the services, His Majesty, I say, will be delighted to learn that *one* shipmaster at least cheerfully surrenders to the King the flower of his flock, a sailor who with equal loyalty makes no dissent.—But where's my beauty? Ah," looking through the cabin's open door, "here he comes; and, by Jove—lugging along his chest—Apollo with his portmanteau!—My man," stepping out to him, "you can't take that big box aboard a warship. The boxes there are mostly shot-boxes. Put your duds in a bag, lad. Boot and saddle for the cavalrymen, bag and hammock for the man-of-war's man."

The transfer from chest to bag was made. And, after seeing his man into the cutter and then following him down, the lieutenant pushed off from the *Rights-of-Man*. That was the merchant-ship's name, though by her master and crew abbreviated in sailor fashion into *The Rights*. The hard-headed Dundee owner was a staunch admirer of Thomas Paine, whose book in rejoinder to Burke's arraignment of the French Revolution had then been published for some time and had gone everywhere. In christening his vessel after the title of Paine's volume the man of Dundee was something like his contemporary shipowner, Stephen Girard of Philadelphia, whose sympathies, alike with his native land and its liberal philosophers, he evinced by naming his ships after Voltaire, Diderot, and so forth.

But now, when the boat swept under the merchant-man's stern, and officer and oarsmen were noting—some bitterly and others with a grin—the name emblazoned there, just then it was that the new recruit jumped

up from the bow where the coxswain had directed him to sit, and waving his hat to his silent shipmates sorrowfully looking over at him from the taffrail, bade the lads a genial good-bye. Then, making a salutation as to the ship herself, "And good bye to you too, old *Rights of Man*."

"Down, sir!" roared the lieutenant, instantly assuming all the rigor of his rank, though with difficulty repressing a smile.

To be sure Billy's action was a terrible breach of naval decorum. But in that decorum he had never been instructed, in consideration of which the lieutenant would hardly have been so energetic in reproof but for the concluding farewell to the ship. This he rather took as meant to convey a covert sally on the new recruit's part, a sly slur at impressment in general, and that of himself in especial. And yet, more likely, if satire it was in effect, it was hardly so by intention, for Billy though happily endowed with the gayety of high health, youth, and a free heart, was yet by no means of a satirical turn. The will to it and the sinister dexterity were alike wanting. To deal in double meanings and insinuations of any sort was quite foreign to his nature.

As to his enforced enlistment, that he seemed to take pretty much as he was wont to take any vicissitude of weather. Like the animals, though no philosopher, he was, without knowing it, practically a fatalist. And it may be that he rather liked this adventurous turn in his affairs, which promised an opening into novel scenes and martial excitements.

Aboard the *Indomitable* our merchant-sailor was forthwith rated as an able seaman and assigned to the starboard watch of the fore-top. He was soon at home in the service, not at all disliked for his unpretentious good looks and a sort of genial happy-go-lucky air. No merrier man in his mess, in marked contrast to certain other individuals included like himself among the impressed portion of the ship's company; for these when not actively employed were sometimes, and more particularly in the last dog watch when the drawing near of twilight induced reverie, apt to fall into a saddish mood which in some partook of sullenness. But they were not so young as our foretopman, and no few of them must have known a hearth of some sort; others may have had wives and children left, too probably, in uncertain circumstances, and hardly any but must have had acknowledged kith and kin, while for

Billy, as will shortly be seen, his entire family was practically invested in himself.

2

Though our new-made Foretopman was well received in the top and on the gun decks, hardly here was he that cynosure he had previously been among those minor ship's companies of the merchant marine, with which companies only had he hitherto consorted.

He was young, and, despite his all but fully developed frame, in aspect looked even younger than he really was, owing to a lingering adolescent expression in the as yet smooth face all but feminine in purity of natural complexion but where, thanks to his seagoing, the lily was quite suppressed and the rose had some ado visibly to flush through the tan.

To one essentially such a novice in the complexities of factitious life, the abrupt transition from his former and simpler sphere to the ampler and more knowing world of a great war-ship—this might well have abashed him had there been any conceit or vanity in his composition. Among her miscellaneous multitude, the *Indomitable* mustered several individuals who, however inferior in grade, were of no common natural stamp, sailors more signally susceptible of that air which continuous martial discipline and repeated presence in battle can in some degree impart even to the average man. As the *Handsome Sailor*, Billy Budd's position aboard the seventy-four was something analogous to that of a rustic beauty transplanted from the provinces and brought into competition with the highborn dames of the court. But this change of circumstances he scarce noted. As little did he observe that something about him provoked an ambiguous smile in one or two harder faces among the bluejackets. Nor less unaware was he of the peculiar favorable effect his person and demeanor had upon the more intelligent gentlemen of the quarter-deck. Nor could this well have been otherwise. Cast in a mould peculiar to the finest physical examples of those Englishmen in whom the Saxon strain would seem not at all to partake of any Norman or other admixture, he showed in face that humane look of reposeful good nature which the Greek sculptor in some instances gave to his heroic strong man, Hercules. But this again was subtly modified by another and pervasive quality. The ear, small and shapely, the arch

of the foot, the curve in mouth and nostril, even the indurated hand dyed to the orange-tawny of the toucan's bill, a hand telling alike of the halyards and tar bucket; but, above all, something in the mobile expression, and every chance attitude and movement, something suggestive of a mother eminently favored by Love and the Graces; all this strangely indicated a lineage in direct contradiction to his lot. The mysteriousness here became less mysterious through a matter of fact elicited when Billy at the capstan was being formally mustered into the service. Asked by the officer, a small brisk little gentleman, as it chanced among other questions, his place of birth, he replied, "Please, Sir, I don't know."

"Don't know where you were born?—Who was your father?"

"God knows, Sir."

Struck by the straightforward simplicity of these replies, the officer next asked, "Do you know anything about your beginning?"

"No, Sir. But I have heard that I was found in a pretty silk-lined basket hanging one morning from the knocker of a good man's door in Bristol."

"*Found* say you? Well," throwing back his head and looking up and down the new recruit; "well, it turns out to have been a pretty good find. Hope they'll find some more like you, my man; the fleet sadly needs them."

Yes, Billy Budd was a foundling, a presumable by-blow, and, evidently, no ignoble one. Noble descent was as evident in him as in a blood horse.

For the rest, with little or no sharpness of faculty or any trace of the wisdom of the serpent, nor yet quite a dove, he possessed that kind and degree of intelligence going along with the unconventional rectitude of a sound human creature, one to whom not yet has been proffered the questionable apple of knowledge. He was illiterate; he could not read, but he could sing, and like the illiterate nightingale was sometimes the composer of his own song.

Of self-consciousness he seemed to have little or none, or about as much as we may reasonably impute to a dog of Saint Bernard's breed.

Habitually living with the elements and knowing little more of the land than as a beach, or, rather, that portion of the terraqueous globe

providentially set apart for dancehouses, doxies, and tapsters, in short what sailors call a "fiddlers'-greens," his simple nature remained unsophisticated by those moral obliquities which are not in every case incompatible with that manufacturable thing known as respectability. But are sailors, frequenters of fiddlers' greens, without vices? No; but less often than with landsmen do their vices, so called, partake of crookedness of heart, seeming less to proceed from viciousness than exuberance of vitality after long constraint; frank manifestations in accordance with natural law. By his original constitution aided by the cooperating influences of his lot, Billy in many respects was little more than a sort of upright barbarian, much such perhaps as Adam presumably might have been ere the urbane Serpent wriggled himself into his company.

And here be it submitted that, apparently going to corroborate the doctrine of man's fall, a doctrine now popularly ignored, it is observable that where certain virtues pristine and unadulterate peculiarly characterize anybody in the external uniform of civilization, they will upon scrutiny seem not to be derived from custom or convention, but rather to be out of keeping with these, as if indeed exceptionally transmitted from a period prior to Cain's city and citified man. The character marked by such qualities has to an unvitiated taste an untampered-with flavor like that of berries, which the man thoroughly civilized even in a fair specimen of the breed has to the same moral palate a questionable smack as of a compounded wine. To any stray inheritor of these primitive qualities found, like Kaspar Hauser, wandering dazed in any Christian capital of our time, the good-natured poet's famous invocation, near two thousand years ago, of the good rustic out of his latitude in the Rome of the Cesars, still appropriately holds:

Honest and poor, Faithful in word and thought,
What has Thee, Fabian, to the city brought.

Though our Handsome Sailor had as much of masculine beauty as one can expect anywhere to see, nevertheless, like the beautiful woman in one of Hawthorne's minor tales, there was just one thing amiss in him. No visible blemish indeed, as with the lady; no, but an occasional liability to a vocal defect. Though in the hour of elemental uproar or peril he was everything that a sailor should be, yet under sudden provocation of strong heart-feeling his voice, otherwise singularly musical, as if

expressive of the harmony within, was apt to develop an organic hesitancy, in fact more or less of a stutter or even worse. In this particular Billy was a striking instance that the arch interferer, the envious marplot of Eden, still has more or less to do with every human consignment to this planet of earth. In every case, one way or another he is sure to slip in his little card, as much as to remind us—I too have a hand here.

The avowal of such an imperfection in the Handsome Sailor should be evidence not alone that he is not presented as a conventional hero, but also that the story in which he is the main figure is no romance.

3

At the time of Billy Budd's arbitrary enlistment into the *Indomitable* that ship was on her way to join the Mediterranean fleet. No long time elapsed before the junction was effected. As one of that fleet the seventy-four participated in its movements, though at times, on account of her superior sailing qualities, in the absence of frigates, despatched on separate duty as a scout and at times on less temporary service. But with all this the story has little concernment, restricted as it is to the inner life of one particular ship and the career of an individual sailor.

It was the summer of 1797. In the April of that year had occurred the commotion at Spithead, followed in May by a second and yet more serious outbreak in the fleet at the Nore. The latter is known, and without exaggeration in the epithet, as the Great Mutiny. It was indeed a demonstration more menacing to England than the contemporary manifestoes and conquering and proselyting armies of the French Directory.

To the British Empire the Nore mutiny was what a strike in the fire brigade would be to London threatened by general arson. In a crisis when the kingdom might well have anticipated the famous signal that some years later published along the naval line of battle what it was that upon occasion England expected of Englishmen, *that* was the time when at the mastheads of the three-deckers and seventy-fours moored in her own roadstead—a fleet, the right arm of a Power then all but the sole free conservative one of the Old World—the bluejackets, to be numbered by thousands, ran up with huzzas the British colors with the union and cross wiped out; by that cancellation transmuting the flag of founded law and freedom defined into the enemy's red meteor of

unbridled and unbounded revolt. Reasonable discontent growing out of practical grievances in the fleet had been ignited into irrational combustion as by live cinders blown across the Channel from France in flames.

The event converted into irony for a time those spirited strains of Dibdin—as a song-writer no mean auxiliary to the English Government at the European conjuncture—strains celebrating, among other things, the patriotic devotion of the British tar:

And as for my life, 'tis the King's!

Such an episode in the Island's grand naval story her naval historians naturally abridge, one of them (G. P. R. James) candidly acknowledging that fain would he pass it over did not "impartiality forbid fastidiousness." And yet his mention is less a narration than a reference, having to do hardly at all with details. Nor are these readily to be found in the libraries. Like some other events in every age befalling states everywhere including America, the Great Mutiny was of such character that national pride along with views of policy would fain shade it off into the historical background. Such events can not be ignored, but there is a considerate way of historically treating them. If a well-constituted individual refrains from blazoning aught amiss or calamitous in his family, a nation in the like circumstance may without reproach be equally discreet.

Though after parleyings between Government and the ringleaders, and concessions by the former as to some glaring abuses, the first uprising—that at Spithead—with difficulty was put down, or matters for the time pacified; yet at the Nore the unforeseen renewal of insurrection on a yet larger scale, and emphasized in the conferences that ensued by demands deemed by the authorities not only inadmissible but aggressively insolent, indicated—if the Red Flag did not sufficiently do so—what was the spirit animating the men. Final suppression, however, there was, but only made possible perhaps by the unswerving loyalty of the marine corps and voluntary resumption of loyalty among influential sections of the crews.

To some extent the Nore Mutiny may be regarded as analogous to the distempering irruption of contagious fever in a frame constitutionally sound, and which anon throws it off.

At all events, of these thousands of mutineers were some of the tars who not so very long afterwards—whether wholly prompted thereto by patriotism, or pugnacious instinct, or by both—helped to win a coronet for Nelson at the Nile, and the naval crown of crowns for him at Trafalgar. To the mutineers those battles and especially Trafalgar were a plenary absolution and a grand one: For all that goes to make up scenic naval display, heroic magnificence in arms, those battles, especially Trafalgar, stand unmatched in human annals.

4

Concerning "The greatest sailor since our world began."—TENNYSON

In this matter of writing, resolve as one may to keep to the main road, some by-paths have an enticement not readily to be withstood. I am going to err into such a by-path. If the reader will keep me company I shall be glad. At the least we can promise ourselves that pleasure which is wickedly said to be in sinning, for a literary sin the divergence will be.

Very likely it is no new remark that the inventions of our time have at last brought about a change in sea warfare in degree corresponding to the revolution in all warfare effected by the original introduction from China into Europe of gunpowder. The first European firearm, a clumsy contrivance, was, as is well known, scouted by no few of the knights as a base implement, good enough peradventure for weavers too craven to stand up crossing steel with steel in frank fight. But as ashore knightly valor, though shorn of its blazonry, did not cease with the knights, neither on the seas, though nowadays in encounters there a certain kind of displayed gallantry be fallen out of date as hardly applicable under changed circumstances, did the nobler qualities of such naval magnates as Don John of Austria, Doria, Van Tromp, Jean Bart, the long line of British Admirals and the American Decatur of 1812, become obsolete with their wooden walls.

Nevertheless, to anybody who can hold the Present at its worth without being inappreciative of the Past, it may be forgiven, if to such an one the solitary old hulk at Portsmouth, Nelson's *Victory*, seems to float there, not alone as the decaying monument of a fame incorruptible, but also as a poetic reproach, softened by its picturesqueness, to the *Monitors* and yet mightier hulls of the European ironclads. And this

not altogether because such craft are unsightly, unavoidably lacking the symmetry and grand lines of the old battle-ships, but equally for other reasons.

There are some, perhaps, who, while not altogether inaccessible to that poetic reproach just alluded to, may yet on behalf of the new order be disposed to parry it; and this to the extent of iconoclasm, if need be. For example, prompted by the sight of the star inserted in the *Victory's* quarter-deck designating the spot where the Great Sailor fell, these martial utilitarians may suggest considerations implying that Nelson's ornate publication of his person in battle was not only unnecessary, but not military, nay, savored of foolhardiness and vanity. They may add, too, that at Trafalgar it was in effect nothing less than a challenge to death, and death came; and that but for his bravado the victorious Admiral might possibly have survived the battle, and so, instead of having his sagacious dying injunctions overruled by his immediate successor in command, he himself when the contest was decided might have brought his shattered fleet to anchor, a proceeding which might have averted the deplorable loss of life by shipwreck in the elemental tempest that followed the martial one.

Well, should we set aside the more disputable point whether for various reasons it was possible to anchor the fleet, then plausibly enough the Benthamites of war may urge the above.

But the *might-have-been* is but boggy ground to build on. And, certainly, in foresight as to the larger issue of an encounter, and anxious preparations for it—buoying the deadly way and mapping it out, as at Copenhagen—few commanders have been so painstakingly circumspect as this same reckless declarer of his person in fight.

Personal prudence, even when dictated by quite other than selfish considerations, surely is no special virtue in a military man; while an excessive love of glory, impassioning a less burning impulse, the honest sense of duty, is the first. If the name *Wellington* is not so much of a trumpet to the blood as the simpler name *Nelson*, the reason for this may perhaps be inferred from the above. Alfred in his funeral ode on the victor of Waterloo ventures not to call him the greatest soldier of all time, though in the same ode he invokes Nelson as "the greatest sailor since our world began."

At Trafalgar Nelson on the brink of opening the fight sat down and wrote his last brief will and testament. If under the presentiment of the most magnificent of all victories to be crowned by his own glorious death, a sort of priestly motive led him to dress his person in the jeweled vouchers of his own shining deeds; if thus to have adorned himself for the altar and the sacrifice were indeed vainglory, then affectation and fustian is each more heroic line in the great epics and dramas, since in such lines the poet but embodies in verse those exaltations of sentiment that a nature like Nelson, the opportunity being given, vitalizes into acts.

5

Yes, the outbreak at the Nore was put down. But not every grievance was redressed. If the contractors, for example, were no longer permitted to ply some practices peculiar to their tribe everywhere, such as providing shoddy cloth, rations not sound or false in the measure, not the less impressment, for one thing, went on. By custom sanctioned for centuries, and judicially maintained by a Lord Chancellor as late as Mansfield, that mode of manning the fleet, a mode now fallen into a sort of abeyance but never formally renounced, it was not practicable to give up in those years. Its abrogation would have crippled the indispensable fleet, one wholly under canvas, no steam power, its innumerable sails and thousands of cannon, everything in short, worked by muscle alone; a fleet the more insatiate in demand for men, because then multiplying its ships of all grades against contingencies present and to come of the convulsed Continent.

Discontent foreran the two mutinies, and more or less it lurkingly survived them. Hence it was not unreasonable to apprehend some return of trouble sporadic or general. One instance of such apprehensions: In the same year with this story, Nelson, then Vice Admiral Sir Horatio, being with the fleet off the Spanish coast, was directed by the admiral in command to shift his pennant from the *Captain* to the *Theseus*, and for this reason: that the latter ship, having newly arrived on the station from home, where it had taken part in the Great Mutiny, danger was apprehended from the temper of the men, and it was thought that an officer like Nelson was the one, not indeed to terrorize the crew into base subjection, but to win them, by force of his mere presence, back

to an allegiance, if not as enthusiastic as his own, yet as true. So it was that for a time on more than one quarter-deck anxiety did exist. At sea, precautionary vigilance was strained against relapse. At short notice an engagement might come on. When it did, the lieutenants assigned to batteries felt it incumbent on them, in some instances, to stand with drawn swords behind the men working the guns.

6

But on board the seventy-four in which Billy now swung his hammock, very little in the manner of the men and nothing obvious in the demeanor of the officers would have suggested to an ordinary observer that the Great Mutiny was a recent event. In their general bearing and conduct the commissioned officers of a war-ship naturally take their tone from the commander, that is if he have that ascendancy of character that ought to be his.

Captain the Honorable Edward Fairfax Vere, to give his full title, was a bachelor of forty or thereabouts, a sailor of distinction even in a time prolific of renowned seamen. Though allied to the higher nobility his advancement had not been altogether owing to influences connected with that circumstance. He had seen much service, been in various engagements, always acquitting himself as an officer mindful of the welfare of his men, but never tolerating an infraction of discipline; thoroughly versed in the science of his profession, and intrepid to the verge of temerity, though never injudiciously so. For his gallantry in the West Indian waters as flag-lieutenant under Rodney in that admiral's crowning victory over De Grasse, he was made a post-captain.

Ashore in the garb of a civilian scarce anyone would have taken him for a sailor, more especially that he never garnished unprofessional talk with nautical terms, and, grave in his bearing, evinced little appreciation of mere humor. It was not out of keeping with these traits that on a passage when nothing demanded his paramount action, he was the most undemonstrative of men. Any landsman observing this gentleman not conspicuous by his stature and wearing no pronounced insignia, emerging from his cabin to the open deck, and noting the silent deference of the officers retiring to leeward, might have taken him for the King's guest, a civilian aboard the King's-ship, some highly honorable discreet envoy on his way to an important post. But in fact this unobtrusiveness of

demeanor may have proceeded from a certain unaffected modesty of manhood sometimes accompanying a resolute nature, a modesty evinced at all times not calling for pronounced action, and which, shown in any rank of life, suggests a virtue aristocratic in kind.

As with some other engaged in various departments of the world's more heroic activities, Captain Vere, though practical enough upon occasion, would at times betray a certain dreaminess of mood. Standing alone on the weather side of the quarter deck, one hand holding by the rigging, he would absently gaze off at the blank sea. At the presentation to him then of some minor matter interrupting the current of his thoughts he would show more or less irascibility, but instantly he would control it.

In the navy he was popularly known by the appellation "Starry Vere." How such a designation happened to fall upon one who, whatever his sterling qualities, was without any brilliant ones, was in this wise: A favorite kinsman, Lord Denton, a free-hearted fellow, had been the first to meet and congratulate him upon his return to England from his West Indian cruise; and but the day previous turning over a copy of Andrew Marvell's poems had lighted, not for the first time however, upon the lines entitled "Appleton House," the name of one of the seats of their common ancestor, a hero in the German wars of the seventeenth century, in which poem occur the lines,

This 'tis to have been from the first
In a domestic heaven nursed,
Under the discipline severe
Of Fairfax and the starry Vere.

And so, upon embracing his cousin fresh from Rodney's great victory wherein he had played so gallant a part, brimming over with just family pride in the sailor of their house, he exuberantly exclaimed, "Give ye joy, Ed; give ye joy, my starry Vere!" This got currency, and the novel prefix serving in familiar parlance readily to distinguish the *Indomitable's* captain from another Vere his senior, a distant relative an officer of like rank in the navy, it remained permanently attached to the surname.

In view of the part that the commander of the *Indomitable* plays

in scenes shortly to follow, it may be well to fill out that sketch of him outlined in the previous chapter.

Aside from his qualities as a sea officer Captain Vere was an exceptional character. Unlike no few of England's renowned sailors, long and arduous service, with signal devotion to it, had not resulted in absorbing and *salting* the entire man. He had a marked leaning toward everything intellectual. He loved books, never going to sea without a newly replenished library, compact but of the best. The isolated leisure, in some cases so wearisome, falling at intervals to commanders even during a war cruise, never was tedious to Captain Vere. With nothing of that literary taste which less heeds the thing conveyed than the vehicle, his bias was toward those books to which every serious mind of superior order occupying any active post of authority in the world naturally inclines: books treating of actual men and events no matter of what era—history, biography, and unconventional writers, who, free from cant and convention, like Montaigne, honestly and in the spirit of common sense philosophize upon realities.

In this love of reading he found confirmation of his own more reasoned thoughts—confirmation which he had vainly sought in social converse—so that, as touching most fundamental topics, there had got to be established in him some positive convictions, which he forefelt would abide in him essentially unmodified so long as his intelligent part remained unimpaired. In view of the troubled period in which his lot was cast this was well for him. His settled convictions were as a dike against those invading waters of novel opinion, social, political, and otherwise, which carried away as in a torrent no few minds in those days, minds by nature not inferior to his own. While other members of that aristocracy to which by birth he belonged were incensed at the innovators mainly because their theories were inimical to the privileged classes, not alone Captain Vere disinterestedly opposed them because they seemed to him incapable of embodiment in lasting institutions, but at war with the peace of the world and the true welfare of mankind.

With minds less stored than his and less earnest, some officers of his rank, with whom at times he would necessarily consort, found him lacking in the companionable quality, a dry and bookish gentleman,

as they deemed. Upon any chance withdrawal from their company one would be apt to say to another, something like this: "Vere is a noble fellow, Starry Vere. Spite the gazettes, Sir Horatio" meaning him with the Lord title "is at bottom scarce a better seaman or fighter. But between you and me now don't you think there is a queer streak of the pedantic running through him? Yes, like the King's yarn in a coil of navy-rope?"

Some apparent ground there was for this sort of confidential criticism, since not only did the captain's discourse never fall into the jocosely familiar, but in illustrating of any point touching the stirring personages and events of the time he would be as apt to cite some historic character or incident of antiquity as that he would cite from the moderns. He seemed unmindful of the circumstance that to his bluff company such remote allusions, however pertinent they might really be, were altogether alien to men whose reading was mainly confined to the journals. But considerateness in such matters is not easy to natures constituted like Captain Vere's. Their honesty prescribes to them directness, sometimes far-reaching like that of a migratory fowl that in its flight never heeds when it crosses a frontier.

8

The lieutenants and other commissioned gentlemen forming Captain Vere's staff it is not necessary here to particularize, nor needs it to make any mention of any of the warrant officers. But among the petty-officers was one who, having much to do with the story, may as well be forthwith introduced. His portrait I essay, but shall never hit it. This was John Claggart, the Master-at-Arms. But that sea title may to landsmen seem somewhat equivocal. Originally, doubtless, that petty officer's function was the instruction of the men in the use of arms, sword or cutlas. But very long ago, owing to the advance in gunnery making hand-to-hand encounters less frequent and giving to niter and sulphur the preeminence over steel, that function ceased; the master-at-arms of a great war-ship becoming a sort of chief of police charged among other matters with the duty of preserving order on the populous lower gun decks.

Claggart was a man about five and thirty, somewhat spare and tall, yet of no ill figure upon the whole. His hand was too small and

shapely to have been accustomed to hard toil. The face was a notable one, the features all except the chin cleanly cut as those on a Greek medallion; yet the chin, beardless as Tecumseh's, had something of strange protuberant heaviness in its make that recalled the prints of the Rev. Dr. Titus Oates, the historic deponent with the clerical drawl in the time of Charles II and the fraud of the alleged Popish Plot. It served Claggart in his office that his eye could cast a tutoring glance. His brow was of the sort phrenologically associated with more than average intellect; silken jet curls partly clustering over it, making a foil to the pallor below, a pallor tinged with a faint shade of amber akin to the hue of time-tinted marbles of old. This complexion, singularly contrasting with the red or deeply bronzed visages of the sailors, and in part the result of his official seclusion from the sunlight, though it was not exactly displeasing, nevertheless seemed to hint of something defective or abnormal in the constitution and blood. But his general aspect and manner were so suggestive of an education and career incongruous with his naval function that when not actively engaged in it he looked like a man of high quality, social and moral, who for reasons of his own was keeping incog. Nothing was known of his former life. It might be that he was an Englishman, and yet there lurked a bit of accent in his speech suggesting that possibly he was not such by birth, but through naturalization in early childhood. Among certain grizzled sea gossips of the gun decks and forecastle went a rumor perdue that the master-at-arms was a *chevalier* who had volunteered into the king's navy by way of compounding for some mysterious swindle whereof he had been arraigned at the King's Bench. The fact that nobody could substantiate this report was, of course, nothing against its secret currency. Such a rumor once started on the gun decks in reference to almost anyone below the rank of a commissioned officer would, during the period assigned to this narrative, have seemed not altogether wanting in credibility to the tarry old wiseacres of a man-of-war crew. And indeed a man of Claggart's accomplishments, without prior nautical experience entering the navy at mature life, as he did, and necessarily allotted at the start to the lowest grade in it; a man too who never made allusion to his previous life ashore, these were circumstances which in the dearth of exact knowledge as

to his true antecedents opened to the invidious a vague field for unfavorable surmise.

But the sailors' dog-watch gossip concerning him derived a vague plausibility from the fact that now for some period the British navy could so little afford to be squeamish in the matter of keeping up the muster rolls, that not only were press gangs notoriously abroad both afloat and ashore, but there was little or no secret about another matter, namely that the London police were at liberty to capture any questionable fellow at large, and summarily ship him to the dockyard or fleet. Furthermore, even among voluntary enlistments there were instances where the motive thereto partook neither of patriotic impulse nor yet of a random desire to experience a bit of sea life and martial adventure. Insolvent debtors of minor grade, together with the promiscuous lame ducks of morality, found in the Navy a convenient and secure refuge. Secure, because once enlisted aboard a King's ship, they were as much in sanctuary as the transgressor of the Middle Ages harboring himself under the shadow of the altar. Such sanctioned irregularities, which for obvious reasons the government would hardly think to parade at the time and which consequently, and as affecting the least influential class of mankind, have all but dropped into oblivion, lend color to something for the truth whereof I do not vouch, and hence have some scruple in stating; something I remember having seen in print though the book I can not recall; but the same thing was personally communicated to me now more than forty years ago by an old pensioner in a cocked hat with whom I had a most interesting talk on the terrace at Greenwich, a Baltimore Negro, a Trafalgar man. It was to this effect: In the case of a warship short of hands whose speedy sailing was imperative, the deficient quota, in lack of any other way of making it good, would be eked out by draughts culled direct from the jails. For reasons previously suggested it would not perhaps be easy at the present day directly to prove or disprove the allegation. But allowed as a verity, how significant would it be of England's straits at the time, confronted by those wars which like a flight of harpies rose shrieking from the din and dust of the fallen Bastille. That era appears measurably clear to us who look back at it, and but read of it. But to the grandfathers of us graybeards, the more thoughtful of them, the genius of it presented an aspect like that of Camoen's Spirit of the Cape, an eclipsing menace mysterious and prodigious. Not

America was exempt from apprehension. At the height of Napoleon's unexampled conquests, there were Americans who had fought at Bunker Hill who looked forward to the possibility that the Atlantic might prove no barrier against the ultimate schemes of this French upstart from the revolutionary chaos who seemed in act of fulfilling judgment prefigured in the Apocalypse.

But the less credence was to be given to the gun-deck talk touching Claggart, seeing that no man holding his office in a man-of-war can ever hope to be popular with the crew. Besides, in derogatory comments upon anyone against whom they have a grudge, or for any reason or no reason mislike, sailors are much like landsmen—they are apt to exaggerate or romance it.

About as much was really known to the *Indomitable's* tars of the Master-at-Arms' career before entering the service as an astronomer knows about a comet's travels prior to its first observable appearance in the sky. The verdict of the sea quid-nuncs has been cited only by way of showing what sort of moral impression the man made upon rude uncultivated natures whose conceptions of human wickedness were necessarily of the narrowest, limited to ideas of vulgar rascality—a thief among the swinging hammocks during a night watch, or the man-brokers and landsharks of the sea ports.

It was no gossip, however, but fact, that though, as before hinted, Claggart upon his entrance into the navy was, as a novice, assigned to the least honorable section of a man-of-war's crew, embracing the drudgery, he did not long remain there.

The superior capacity he immediately evinced, his constitutional sobriety, ingratiating deference to superiors, together with a peculiar ferreting genius manifested on a singular occasion, all this capped by a certain austere patriotism abruptly advanced him to the position of master-at-arms.

Of this maritime chief of police the ship's-corporals, so called, were the immediate subordinates, and compliant ones, and this, as is to be noted in some business departments ashore, almost to a degree inconsistent with entire moral volition. His place put various converging wires of underground influence under the chief's control, capable when astutely worked through his understrappers of operating to the mysterious discomfort, if nothing worse, of any of the sea commonalty.

Life in the fore-top well agreed with Billy Budd. There, when not actually engaged on the yards yet higher aloft, the topmen, who as such had been picked out for youth and activity, constituted an aerial club lounging at ease against the smaller stun'sails rolled up into cushions, spinning yarns like the lazy gods, and frequently amused with what was going on in the busy world of the decks below. No wonder then that a young fellow of Billy's disposition was well content in such society. Giving no cause of offence to anybody, he was always alert at a call. So in the merchant service it had been with him. But now such a punctiliousness in duty was shown that his topmates would sometimes good-naturedly laugh at him for it. This heightened alacrity had its cause, namely, the impression made upon him by the first formal gangway punishment he had ever witnessed, which befell the day following his impressment. It had been incurred by a little fellow, young, a novice, an after-guardsmen absent from his assigned post when the ship was being put about—a dereliction resulting in a rather serious hitch to that manoeuvre, one demanding instantaneous promptitude in letting go and making fast. When Billy saw the culprit's naked back under the scourge gridironed with red welts, and worse; when he marked the dire expression on the liberated man's face as with his woollen shirt flung over him by the executioner he rushed forward from the spot to bury himself in the crowd, Billy was horrified. He resolved that never through remissness would he make himself liable to such a visitation or do or omit aught that might merit even verbal reproof. What then was his surprise and concern when ultimately he found himself getting into petty trouble occasionally about such matters as the stowage of his bag or something amiss in his hammock, matters under the police oversight of the ship's-corporals of the lower decks, and which brought down on him a vague threat from one of them.

So heedful in all things as he was, how could this be? He could not understand it, and it more than vexed him. When he spoke to his young topmates about it they were either lightly incredulous or found something comical in his unconcealed anxiety. "Is it your bag, Billy?" said one; "well, sew yourself up in it, bully boy, and then you'll be sure to know if anybody meddles with it."

Now there was a veteran aboard who because his years began to disqualify him for more active work had been recently assigned duty as main-mast-man in his watch, looking to the gear belayed at the rail roundabout that great spar near the deck. At off times the foretopman had picked up some acquaintance with him, and now in his trouble it occurred to him that he might be the sort of person to go to for wise counsel. He was an old Dansker long anglicized in the service, of few words, many wrinkles, and some honorable scars. His wizened face, time-tinted and weather-stained to the complexion of an antique parchment, was here and there peppered blue by the chance explosion of a gun cartridge in action. He was an *Agamemnon* man; some two years prior to the time of this story having served under Nelson when but Sir Horatio in that ship immortal in naval memory, and which, dismantled and in part broken up to her bare ribs, is seen a grand skeleton in Haydon's etching. As one of a boarding party from the *Agamemnon* he had received a cut slantwise along one temple and cheek, leaving a long pale scar like a streak of dawn's light falling athwart the dark visage. It was on account of that scar and the affair in which it was known that he had received it, as well as from his blue-peppered complexion, that the Dansker went among the *Indomitable's* crew by the name of "Board-her-in-the-smoke."

Now the first time that his small weazel eyes happened to light on Billy Budd, a certain grim internal merriment set all his ancient wrinkles into antic play. Was it that his eccentric unsentimental old sapience, primitive in its kind, saw or thought it saw something which in contrast with the war-ship's environment looked oddly incongruous in the Handsome Sailor? But after slyly studying him at intervals, the old Merlin's equivocal merriment was modified; for now when the twain would meet it would start in his face a quizzing sort of look, but it would be but momentary and sometimes replaced by an expression of speculative query as to what might eventually befall a nature like that, dropped into a world not without some man traps and against whose subtleties simple courage lacking experience and address and without any touch of defensive ugliness is of little avail; and where such innocence as man is capable of does yet in a moral emergency not always sharpen the faculties or enlighten the will.

However it was, the Dansker in his ascetic way rather took to Billy. Nor was this only because of a certain philosophic interest in such a

character. There was another cause. While the old man's eccentricities, sometimes bordering on the ursine, repelled the juniors, Billy, undeterred thereby, revering him as a salt hero would make advances, never passing the old *Agamemnon*-man without a salutation marked by that respect which is seldom lost on the aged, however crabbed at times or whatever their station in life.

There was a vein of dry humor, or what not, in the mastman; and, whether in freak of patriarchal irony touching Billy's youth and athletic frame or for some other and more recondite reason, from the first in addressing him he always substituted "Baby" for "Billy," the Dansker in fact being the originator of the name by which the foretopman eventually became known aboard ship.

Well then, in his mysterious little difficulty going in quest of the wrinkled one, Billy found him off duty in a dog watch ruminating by himself seated on a shot-box of the upper gun deck now and then surveying with a somewhat cynical regard certain of the more swaggering promenaders there. Billy recounted his trouble, again wondering how it all happened. The salt seer attentively listened, accompanying the foretopman's recital with queer twitchings of his wrinkles and problematical little sparkles of his small ferret eyes. Making an end of his story, the Foretopman asked, "And now, Dansker, do tell me what you think of it."

The old man, shoving up the front of his tarpaulin and deliberately rubbing the long slant scar at the point where it entered the thin hair, laconically said, "Baby Budd, *Jimmy Legs*" (meaning the Master-at-Arms) "is down on you."

"*Jimmy Legs!*" ejaculated Billy, his welkin eyes expanding; "what for? Why he calls me *the sweet and pleasant young fellow*, they tell me."

"Does he so?" grinned the grizzled one; then said "Ay, Baby Lad, a sweet voice has *Jimmy Legs*."

"No, not always. But to me he has. I seldom pass him but there comes a pleasant word."

"And that's because he's down upon you, Baby Budd."

Such reiteration along with the manner of it, incomprehensible to a novice, disturbed Billy almost as much as the mystery for which he had sought explanation. Something less unpleasingly oracular he tried

to extract; but the old sea-Chiron, thinking perhaps that for the nonce he had sufficiently instructed his young Achilles, pursed his lips, gathered all his wrinkles together, and would commit himself to nothing further.

Years, and those experiences which befell certain shrewder men subordinated lifelong to the will of superiors, all this had developed in the Dansker the pithy guarded cynicism that was his leading characteristic.

10

The next day an incident served to confirm Billy Budd in his incredulity as to the Dansker's strange summing up of the case submitted.

The ship at noon going large before the wind was rolling on her course, and he below at dinner and engaged in some sportful talk with the members of his mess chanced in a sudden lurch to spill the entire contents of his soup pan upon the new scrubbed deck. Claggart, the Master-at-Arms, official rattan in hand, happened to be passing along the battery in a bay of which the mess was lodged, and the greasy liquid streamed just across his path. Stepping over it, he was proceeding on his way without comment, since the matter was nothing to take notice of under the circumstances, when he happened to observe who it was that had done the spilling. His countenance changed. Pausing, he was about to ejaculate something hasty at the sailor, but checked himself, and, pointing down to the streaming soup, playfully tapped him from behind with his rattan, saying in a low musical voice peculiar to him at times: "Handsomely done, my lad! And handsome is as handsome did it too!" And with that passed on. Not noted by Billy, as not coming within his view, was the involuntary smile, or rather grimace, that accompanied Claggart's equivocal words. Aridly it drew down the thin corners of his shapely mouth. But everybody taking his remark as meant for humorous, and at which therefore as coming from a superior they were bound to laugh, "with counterfeited glee" acted accordingly; and Billy, tickled, it may be, by the allusion to his being the Handsome Sailor, merrily joined in; then addressing his mess-mates exclaimed: "There now, who says that Jimmy Legs is down on me!"

"And who said he was, Beauty?" demanded one Donald with some surprise. Whereat the Foretopman looked a little foolish recalling that

it was only one person, Board-her-in-the-smoke, who had suggested what to him was the smoky idea that this Master-at-Arms was in any peculiar way hostile to him. Meantime that functionary, resuming his path, must have momentarily worn some expression less guarded than that of the bitter smile, and usurping the face from the heart, some distorting expression perhaps, for a drummer-boy heedlessly frolicking along from the opposite direction and chancing to come into light collision with his person, was strangely disconcerted by his aspect. Nor was the impression lessened when the official, impulsively giving him a sharp cut with the rattan, vehemently exclaimed: "Look where you go!"

11

What was the matter with the Master-at-Arms? And, be the matter what it might, how could it have direct relation to Billy Budd, with whom, prior to the affair of the spilled soup, he had never come into any special contact official or otherwise? What indeed could the trouble have to do with one so little inclined to give offence as the merchant-ship's *peacemaker*, even him who in Claggart's own phrase was "the sweet and pleasant young fellow"? Yes, why should *Jimmy Legs*, to borrow the Dansker's expression, be *down* on the Handsome Sailor? But, at heart and not for nothing, as the late chance encounter may indicate to the discerning, down on him, secretly down on him, he assuredly was.

Now to invent something touching the more private career of Claggart, something involving Billy Budd, of which something the latter should be wholly ignorant, some romantic incident implying that Claggart's knowledge of the young bluejacket began at some period anterior to catching sight of him on board the seventy-four—all this, not so difficult to do, might avail in a way more or less interesting to account for whatever of enigma may appear to lurk in the case. But in fact there was nothing of the sort. And yet the cause, necessarily to be assumed as the sole one assignable, is in its very realism as much charged with that prime element of Radcliffian romance, *the mysterious*, as any that the ingenuity of the author of the *Mysteries of Udolpho* could devise. For what can more partake of the mysterious than an antipathy spontaneous and profound, such as is evoked in certain excep-

tional mortals by the mere aspect of some other mortal however harmless he may be, if not called forth by this very harmlessness itself?

Now there can exist no irritating juxtaposition of dissimilar personalities comparable to that which is possible aboard a great war-ship fully manned and at sea. There, every day among all ranks, almost every man comes into more or less of contact with almost every other man. Wholly there to avoid even the sight of an aggravating object one must needs give it Jonah's toss or jump overboard himself. Imagine how all this might eventually operate on some peculiar human creature the direct reverse of a saint.

But for the adequate comprehending of Claggart by a normal nature these hints are insufficient. To pass from a normal nature to him one must cross "the deadly space between." And this is best done by indirection.

Long ago an honest scholar my senior said to me in reference to one who like himself is now no more, a man so unimpeachably respectable that against him nothing was ever openly said though among the few something was whispered, "Yes, X—— is a nut not to be cracked by the tap of a lady's fan. You are aware that I am the adherent of no organized religion, much less of any philosophy built into a system. Well, for all that, I think that to try and get into X——, enter his labyrinth and get out again, without a clue derived from some source other than what is known as *knowledge of the world*—that were hardly possible, at least for me."

"Why," said I, "X——, however singular a study to some, is yet human, and knowledge of the world assuredly implies the knowledge of human nature, and in most of its varieties."

"Yes, but a superficial knowledge of it, serving ordinary purposes. But for anything deeper, I am not certain whether to know the world and to know human nature be not two distinct branches of knowledge, which, while they may coexist in the same heart, yet either may exist with little or nothing of the other. Nay, in an average man of the world, his constant rubbing with it blunts that fine spiritual insight indispensable to the understanding of the essential in certain exceptional characters, whether evil ones or good. In a matter of some importance I have seen a girl wind an old lawyer about her little finger. Nor was it the dotage of senile love. Nothing of the sort. But he knew law better

than he knew the girl's heart. Coke and Blackstone hardly shed so much light into obscure spiritual places as the Hebrew prophets. And who were they? Mostly recluses."

At the time my inexperience was such that I did not quite see the drift of all this. It may be that I see it now. And, indeed, if that lexicon which is based on Holy Writ were any longer popular, one might with less difficulty define and denominate certain phenomenal men. As it is, one must turn to some authority not liable to the charge of being tinctured with the Biblical element.

In a list of definitions included in the authentic translation of Plato, a list attributed to him, occurs this: "Natural Depravity: a depravity according to nature." A definition which, though savoring of Calvinism, by no means involves Calvin's dogmas as to total mankind. Evidently its intent makes it applicable but to individuals. Not many are the examples of this depravity, which the gallows and jail supply. At any rate, for notable instances, since these have no vulgar alloy of the brute in them but invariably are dominated by intellectuality, one must go elsewhere. Civilization, especially if of the austerer sort, is auspicious to it. It folds itself in the mantle of respectability. It has its certain negative virtues serving as silent auxiliaries. It never allows wine to get within in its guard. It is not going too far to say that it is without vices or small sins. There is a phenomenal pride in it that excludes them from anything mercenary or avaricious. In short the depravity here meant partakes nothing of the sordid or sensual. It is serious, but free from acerbity. Though no flatterer of mankind it never speaks ill of it.

But the thing which in eminent instances signalizes so exceptional a nature is this: though the man's even temper and discreet bearing would seem to intimate a mind peculiarly subject to the law of reason, not the less in his heart he would seem to riot in complete exemption from that law, having apparently little to do with reason further than to employ it as an ambidexter implement for effecting the irrational. That is to say: Toward the accomplishment of an aim which in wantonness of malignity would seem to partake of the insane, he will direct a cool judgement sagacious and sound.

These men are true madmen, and of the most dangerous sort, for their lunacy is not continuous but occasional, evoked by some special

object; it is probably secretive, which is as much to say it is self-contained, so that when, moreover, most active, it is to the average mind not distinguishable from sanity, and for the reason above suggested, that, whatever its aims may be—and the aim is never declared—the method and the outward proceeding are always perfectly rational.

Now something such an one was Claggart, in whom was the mania of an evil nature, not engendered by vicious training or corrupting books or licentious living but born with him and innate, in short “a depravity according to nature.”

12

Lawyers, Experts, Clergy
An Episode

By the way, can it be the phenomenon, disowned or at least concealed, that in some criminal cases puzzles the courts? For this cause have our juries at times not only to endure the prolonged contentions of lawyers with their fees, but also the yet more perplexing strife of the medical experts with theirs?—But why leave it to them? why not subpoena as well the clerical proficient? their vocation bringing them into peculiar contact with so many human beings, and sometimes in their least guarded hour, in interviews very much more confidential than those of physician and patient; this would seem to qualify them to know something about those intricacies involved in the question of moral responsibility; whether in a given case, say, the crime proceeded from mania in the brain or rabies of the heart. As to any differences among themselves these clerical proficient might develop on the stand, these could hardly be greater than the direct contradictions exchanged between the remunerated medical experts.

Dark sayings are these, some will say. But why? Is it because they somewhat savor of Holy Writ in its phrase “mysteries of iniquity”? If they do, such savor was far enough from being intended, for little will it commend these pages to many a reader of to-day.

The point of the present story turning on the hidden nature of the Master-at-Arms has necessitated this chapter. With an added hint or two in connection with the incident at the mess, the resumed narrative must be left to vindicate, as it may, its own credibility.

Pale ire, envy and despair

That Claggart's figure was not amiss, and his face, save the chin, well molded, has already been said. Of these favorable points he seemed not insensible, for he was not only neat but careful in his dress. But the form of Billy Budd was heroic; and if his face was without the intellectual look of the pallid Claggart's, not the less was it lit, like his, from within, though from a different source. The bonfire in his heart made luminous the rose-tan in his cheek.

In view of the marked contrast between the persons of the twain, it is more than probable that when the Master-at-Arms in the scene last given applied to the sailor the proverb *Handsome is as handsome does* he there let escape an ironic inkling, not caught by the young sailors who heard it, as to what it was that had first moved him against Billy, namely, his significant personal beauty.

Now envy and antipathy, passions irreconcilable in reason, nevertheless in fact may spring conjoined like Chang and Eng in one birth. Is Envy then such a monster? Well, though many an arraigned mortal has in hopes of mitigated penalty pleaded guilty to horrible actions, did ever anybody seriously confess to envy? Something there is in it universally felt to be more shameful than even felonious crime. And not only does everybody disown it but the better sort are inclined to incredulity when it is in earnest imputed to an intelligent man. But since its lodgement is in the heart, not the brain, no degree of intellect supplies a guarantee against it. But Claggart's was no vulgar form of the passion. Nor, as directed toward Billy Budd, did it partake of that streak of apprehensive jealousy that marred Saul's visage perturbably brooding on the comely young David. Claggart's envy struck deeper. If askance he eyed the good looks, cheery health, and frank enjoyment of young life in Billy Budd, it was because these went along with a nature that, as Claggart magnetically felt, had in its simplicity never willed malice or experienced the reactionary bite of that serpent. To him, the spirit lodged within Billy and looking out from his welkin eyes as from windows, that ineffability it was which made the dimple in his dyed cheek, supplied his joints, and, dancing in his yellow curls, made him preeminently the Handsome Sailor. One person excepted, the Master-at-Arms was perhaps the only man in the ship intellectually

capable of adequately appreciating the moral phenomenon presented in Billy Budd. And the insight but intensified his passion, which, assuming various secret forms within him, at times assumed that of cynic disdain—disdain of innocence—To be nothing more than innocent! Yet in an esthetic way he saw the charm of it, the courageous free-and-easy temper of it, and fain would have shared it, but he despaired of it.

With no power to annul the elemental evil in him, though readily enough he could hide it; apprehending the good, but powerless to be it; a nature like Claggart's surcharged with energy as such natures almost invariably are, what recourse is left to it but to recoil upon itself, and, like the scorpion for which the Creator alone is responsible, act out to the end the part allotted it.

14

Passion, and passion in its profoundest, is not a thing demanding a palatial stage whereon to play its part. Down among the groundlings, among the beggars and rakers of the garbage, profound passion is enacted. And the circumstances that provoke it, however trivial or mean, are no measure of its power. In the present instance the stage is a scrubbed gun deck, and one of the external provocations a man-of-war's-man's spilled soup.

Now when the Master-at-Arms noticed whence came that greasy fluid streaming before his feet, he must have taken it—to some extent wilfully, perhaps—not for the mere accident it assuredly was, but for the sly escape of a spontaneous feeling on Billy's part more or less answering to the antipathy on his own. In effect a foolish demonstration he must have thought, and very harmless, like the futile kick of a heifer, which yet, were the heifer a shod stallion, would not be so harmless. Even so was it that into the gall of Claggart's envy he infused the vitriol of his contempt. But the incident confirmed to him certain telltale reports purveyed to his ear by "Squeak," one of his more cunning Corporals, a grizzled little man, so nicknamed by the sailors on account of his squeaky voice and sharp visage ferreting about the dark corners of the lower decks after interlopers, satirically suggesting to them the idea of a rat in a cellar.

From his Chief's employing him as an implicit tool in laying little traps for the worriment of the Foretopman—for it was from the

Master-at-Arms that the petty persecutions heretofore adverted to had proceeded—the corporal, having naturally enough concluded that his master could have no love for the sailor, made it his business, faithful understrapper that he was, to foment the ill blood by perverting to his Chief certain innocent frolics of the good natured Foretopman, besides inventing for his mouth sundry contumelious epithets he claimed to have overheard him let fall. The Master-at-Arms never suspected the veracity of these reports, more especially as to the epithets, for he well knew how secretly unpopular may become a master-at-arms, at least a master-at-arms of those days zealous in his function, and how the bluejackets shoot at him in private their raillery and wit; the nickname by which he goes among them (*Jimmy Legs*) implying under the form of merriment their cherished disrespect and dislike.

But in view of the greediness of hate for patrolmen, it hardly needed a purveyor to feed Claggart's passion. An uncommon prudence is habitual with the subtler depravity, for it has everything to hide. And in case of an injury but suspected, its secretiveness voluntarily cuts it off from enlightenment or disillusion; and, not unreluctantly, action is taken upon surmise as upon certainty. And the retaliation is apt to be in monstrous disproportion to the supposed offence; for when in anybody was revenge in its exactions aught else but an inordinate usurer. But how with Claggart's conscience? for though consciences are unlike as foreheads, every intelligence, not excluding the Scriptural devils who "believe and tremble," has one. But Claggart's conscience, being but the lawyer to his will, made ogres of trifles, probably arguing that the motive imputed to Billy in spilling the soup just when he did, together with the epithets alleged, these, if nothing more, made a strong case against him; nay, justified animosity into a sort of retributive righteousness. The Pharisee is the Guy Fawkes prowling in the hid chambers underlying the Claggarts. And they can really form no conception of an unreciprocated malice. Probably, the Master-at-Arms' clandestine persecution of Billy was started to try the temper of the man; but it had not developed any quality in him that enmity could make official use of or even pervert into plausible self-justification; so that the occurrence at the mess, petty if it were, was a welcome one to that peculiar conscience assigned to be the private mentor of Claggart. And, for the rest, not improbably it put him upon new experiments.

Not many days after the last incident narrated something befell Billy Budd that more graveled him than aught that had previously occurred.

It was a warm night for the latitude, and the Foretopman, whose watch at the time was properly below, was dozing on the uppermost deck, whither he had ascended from his hot hammock, one of hundreds suspended so closely wedged together over a lower gun deck that there was little or no swing to them. He lay as in the shadow of a hill-side, stretched under the lee of the booms, a piled ridge of spare spars amidships between foremast and mainmast and among which the ship's largest boat, the launch, was stowed. Alongside of three other slumberers from below, he lay near that end of the booms which approaches the foremast, his station aloft on duty as a foretopman being just over the deck-station of the forecastlemen, entitling him according to usage to make himself more or less at home in that neighborhood.

Presently he was stirred into semiconsciousness by somebody, who must have previously sounded the sleep of the others, touching his shoulder, and then, as the Foretopman raised his head, breathing into his ear in a quick whisper, "Slip into the lee forechains, Billy; there is something in the wind. Don't speak. Quick, I will meet you there," and disappeared.

Now Billy, like sundry other essentially goodnatured ones, had some of the weaknesses inseparable from essential good nature, and among these was a reluctance, almost an incapacity, of plumply saying *no* to an abrupt proposition not obviously absurd on the face of it, nor obviously unfriendly, nor iniquitous. And being of warm blood he had not the phlegm tacitly to negative any proposition by unresponsive inaction. Like his sense of fear, his apprehension as to aught outside of the honest and natural was seldom very quick. Besides, upon the present occasion, the drowse from his sleep still hung upon him.

However it was, he mechanically rose, and sleepily wondering what could be in the wind, betook himself to the designated place, a narrow platform, one of six, outside of the high bulwarks and screened by the great deadeyes and multiple columned lanyards of the shrouds and backstays, and, in a great war-ship of that time, of dimensions commensurate to the hull's magnitude, a tarry balcony in short overhanging

the sea, and so secluded that one mariner of the *Indomitable*, a non-conformist old tar of a serious turn, made it even in daytime his private oratory.

In this retired nook the strangers soon joined Billy Budd. There was no moon as yet; a haze obscured the star-light. He could not distinctly see the stranger's face. Yet from something in the outline and carriage, Billy took him to be, and correctly, for one of the after-guard.

"Hist! Billy," said the man in the same quick cautionary whisper as before; "you were impressed, weren't you? Well, so was I," and he paused, as to mark the effect. But Billy, not knowing exactly what to make of this, said nothing. Then the other: "We are not the only impressed ones, Billy. There's a gang of us.—Couldn't you—help—at a pinch?"

"What do you mean?" demanded Billy, here thoroughly shaking off his drowse.

"Hist, hist!" the hurried whisper now growing husky, "see here"—and the man held up two small objects faintly twinkling in the nightlight—"see, they are yours, Billy, if you'll only—"

But Billy broke in, and in his resentful eagerness to deliver himself his vocal infirmity somewhat intruded: "D-D-Damme, I don't know what you are d-d-driving at, or what you mean, but you had better g-g-go where you belong!" For the moment the fellow, as confounded, did not stir; and Billy, springing to his feet, said, "If you d-don't start I'll t-t-toss you back over the r-rail!" There was no mistaking this, and the mysterious emissary decamped, disappearing in the direction of the mainmast in the shadow of the booms.

"Hallo, what's the matter?" here came growling from a forecastleman awakened from his deck doze by Billy's raised voice. And as the Foretopman reappeared and was recognized by him: "Ah, Beauty, is it you? Well, something must have been the matter for you st-st-stuttered."

"O," rejoined Billy, now mastering the impediment, "I found an afterguardsman in our part of the ship here and I bid him be off where he belongs."

"And is that all you did about it, Foretopman?" gruffly demanded another, an irascible old fellow of brick-colored visage and hair, and

who was known to his associate forecastlemen as "Red Pepper." "Such sneaks I should like to marry to the gunner's daughter!" by that expression meaning that he would like to subject them to disciplinary castigation over a gun.

However, Billy's rendering of the matter satisfactorily accounted to these inquirers for the brief commotion, since of all the sections of a ship's company the forecastlemen, veterans for the most part and bigoted in their sea prejudices, are the most jealous in resenting territorial encroachments, especially on the part of any of the afterguard, of whom they have but a sorry opinion, chiefly landmen, never going aloft except to reef or furl the mainsail, and in no wise competent to handle a marlinspike or turn in a deadeye, say.

16

This incident sorely puzzled Billy Budd. It was an entirely new experience, the first time in his life that he had ever been personally approached in underhand intriguing fashion. Prior to this encounter he had known nothing of the after-guardsman, the two men being stationed wide apart, one forward and aloft during his watch, the other on deck and aft.

What could it mean? And could they really be guineas, those two glittering objects the interloper had held up to his eyes? Where could the fellow get guineas? Why even spare buttons are not so plentiful at sea. The more he turned the matter over, the more he was non-plused, and made uneasy and discomforted. In his disgustful recoil from an overture which though he but ill comprehended he instinctively knew must involve evil of some sort, Billy Budd was like a young horse fresh from the pasture suddenly inhaling a vile whiff from some chemical factory and by repeated snortings tries to get it out of his nostrils and lungs. This frame of mind barred all desire of holding further parley with the fellow, even were it but for the purpose of gaining some enlightenment as to his design in approaching him. And yet he was not without natural curiosity to see how such a visitor in the dark would look in broad day.

He espied him the following afternoon in his first dog watch below, one of the smokers on that forward part of the upper gun deck allotted to the pipe. He recognized him by his general cut and build, more than

by his round freckled face and glassy eyes of pale blue, veiled with lashes all but white. And yet Billy was a bit uncertain whether indeed it were he—yonder chap about his own age chatting and laughing in free-hearted way, leaning against a gun, a genial young fellow enough to look at, and something of a rattlebrain, to all appearance. Rather chubby too for a sailor, even an after-guardsman. In short the last man in the world, one would think, to be overburthened with thoughts, especially those perilous thoughts that must needs belong to a conspirator in any serious project, or even to the underling of such a conspirator.

Although Billy was not aware of it, the fellow, with a sidelong watchful glance, had perceived Billy first, and then noting that Billy was looking at him thereupon nodded a familiar sort of friendly recognition as to an old acquaintance, without interrupting the talk he was engaged in with the group of smokers. A day or two afterwards, chancing in the evening promenade on a gun deck to pass Billy, he offered a flying word of good fellowship, as it were, which, by its unexpectedness and equivocalness under the circumstances, so embarrassed Billy that he knew not how to respond to it, and let it go unnoticed.

Billy was now left more at a loss than before. The ineffectual speculations into which he was led were so disturbingly alien to him that he did his best to smother them. It never entered his mind that here was a matter which, from its extreme questionableness, it was his duty as a loyal bluejacket to report in the proper quarter. And, probably, had such a step been suggested to him, he would have been deterred from taking it by the thought, one of novice magnanimity, that it would savor overmuch of the dirty work of a telltale. He kept the thing to himself. Yet upon one occasion he could not forbear a little disburthening himself to the old Dansker, tempted thereto perhaps by the influence of a balmy night when the ship lay becalmed; the twain, silent for the most part, sitting together on deck, their heads propped against the bulwarks. But it was only a partial and anonymous account that Billy gave, the unfounded scruples above referred to preventing full disclosure to anybody. Upon hearing Billy's version, the sage Dansker seemed to divine more than he was told, and, after a little meditation during which his wrinkles were pursed as into a point, quite effacing for the time that quizzing expression his face sometimes wore—"Didn't I say so, Baby Budd?"

"Say what?" demanded Billy.

"Why, *Jimmy Legs* is down on you."

"And what," rejoined Billy in amazement, "has *Jimmy Legs* to do with that cracked afterguardsman?"

"Ho, it was an afterguardsman then. A cat's-paw, a cat's-paw!" And with that exclamation, which, whether it had reference to a light puff of air just then coming over the calm sea, or subtler relation to the afterguardsman, there is no telling, the old Merlin gave a twisting wrench with his black teeth at his plug of tobacco, vouchsafing no reply to Billy's impetuous question, though now repeated, for it was his wont to relapse into grim silence when interrogated in skeptical sort as to any of his sententious oracles, not always very clear ones, rather partaking of that obscurity which invests most Delphic deliverances from any quarter.

Long experience had very likely brought this old man to that bitter prudence which never interferes in aught and never gives advice.

17

Yes, despite the Dansker's pithy insistence as to the Master-at-Arms being at the bottom of these strange experiences of Billy on board the *Indomitable*, the young sailor was ready to ascribe them to almost anybody but the man who, to use Billy's own expression, "always had a pleasant word for him." This is to be wondered at. Yet not so much to be wondered at. In certain matters, some sailors even in mature life remain unsophisticated enough. But a young seafarer of the disposition of our athletic Foretopman, is much of a child-man. And yet a child's utter innocence is but its blank ignorance, and the innocence more or less wanes as intelligence waxes. But in Billy Budd intelligence, such as it was, had advanced, while yet his simplemindedness remained for the most part unaffected. Experience is a teacher indeed, yet did Billy's years make his experience small. Besides, he had none of that intuitive knowledge of the bad which in natures not good or incompletely so foreruns experience, and therefore may pertain, as in some instances it too clearly does pertain, even to youth.

And what could Billy know of man except of man as a mere sailor? And the old-fashioned sailor, the veritable man-before-the-mast, the

sailor from boyhood up, he, though indeed of the same species as a landsman, is in some respects singularly distinct from him. The sailor is frankness, the landsman is finesse. Life is not a game with the sailor, demanding the long head; no intricate game of chess where few moves are made in straightforwardness, and ends are attained by indirection; an oblique, tedious, barren game hardly worth that poor candle burnt out in playing it.

Yes, as a class, sailors are in character a juvenile race. Even their deviations are marked by juvenility. And this more especially holding true with the sailors of Billy's time. Then, too, certain things which apply to all sailors do more pointedly operate here and there upon the junior one. Every sailor, too, is accustomed to obey orders without debating them; his life afloat is externally ruled for him; he is not brought into that promiscuous commerce with mankind where unobstructed free agency on equal terms—equal superficially, at least—soon teaches one that unless upon occasion he exercise a distrust keen in proportion to the fairness of the appearance, some foul turn may be served him. A ruled undemonstrative distrustfulness is so habitual, not with businessmen so much, as with men who know their kind in less shallow relations than business, namely, certain men-of-the-world, that they come at last to employ it all but unconsciously, and some of them would very likely feel real surprise at being charged with it as one of their general characteristics.

18

But after the little matter at the mess Billy Budd no more found himself in strange trouble at times about his hammock or his clothes bag or what not. While, as to that smile that occasionally sunned him, and the pleasant passing word, these were, if not more frequent, yet if anything more pronounced than before.

But, for all that, there were certain other demonstrations now. When Claggart's unobserved glance happened to light on belted Billy rolling along the upper gun deck in the leisure of the second dog watch, exchanging passing broadsides of fun with other young promenaders in the crowd, that glance would follow the cheerful sea-Hyperion with a settled meditative and melancholy expression, his eyes strangely suffused with incipient feverish tears. Then would Claggart look like the man of sorrows. Yes, and sometimes the melancholy expression

would have in it a touch of soft yearning, as if Claggart could even have loved Billy but for fate and ban. But this was an evanescence, and quickly repented of, as it were, by an immitigable look, pinching and shriveling the visage into the momentary semblance of a wrinkled walnut. But sometimes catching sight in advance of the foretopman coming in his direction, he would, upon their nearing, step aside a little to let him pass, dwelling upon Billy for the moment with the glittering dental satire of a Guise. But upon any abrupt unforeseen encounter a red light would [flash] forth from his eye like a spark from an anvil in a dusk smithy. That quick fierce light was a strange one, darted from orbs which in repose were of a color nearest approaching a deeper violet, the softest of shades.

Though some of these caprices of the pit could not but be observed by their object, yet were they beyond the construing of such a nature. And the thews of Billy were hardly compatible with that sort of sensitive spiritual organisation which in some cases instinctively conveys to ignorant innocence an admonition of the proximity of the malign. He thought the Master-at-Arms acted in a manner rather queer at times. That was all. But the occasional frank air and pleasant word went for what they purported to be, the young sailor never having heard as yet of the "too fair-spoken man."

Had the Foretopman been conscious of having done or said anything to provoke the ill will of the official, it would have been different with him, and his sight might have been purged if not sharpened. As it was, innocence was his blinder.

So was it with him in yet another matter. Two minor officers—the Armorer and Captain of the Hold, with whom he had never exchanged a word, his position in the ship not bringing him into contact with them—these men now for the first began to cast upon Billy when they chanced to encounter him that peculiar glance which evidences that the man from whom it comes has been some way tampered with and to the prejudice of him upon whom the glance lights. Never did it occur to Billy as a thing to be noted or a thing suspicious, though he well knew the fact, that the Armorer and Captain of the Hold, with the ship's-yeoman, apothecary, and others of that grade, were, by naval usage, messmates of the Master-at-Arms, men with ears convenient to his confidential tongue.

But the general popularity that our *Handsome Sailor's* manly forwardness upon occasion, and his irresistible good nature, indicating no mental superiority tending to excite an invidious feeling—this good will on the part of most of his shipmates made him the less to concern himself about such mute aspects toward him as those whereto allusion has just been made.

As to the afterguardsman, though Billy for reasons already given necessarily saw little of him, yet when the two did happen to meet, invariably came the fellow's off-hand cheerful recognition, sometimes accompanied by a passing pleasant word or two. Whatever that equivocal young person's original design may really have been, or the design of which he might have been the deputy, certain it was from his manner upon these occasions that he had wholly dropped it.

It was as if his precocity of crookedness (and every vulgar villain is precocious) had for once deceived him, and the man he had sought to entrap as a simpleton had, through his very simplicity, ignominiously baffled him.

But shrewd ones may opine that it was hardly possible for Billy to refrain from going up to the after-guardsman and bluntly demanding to know his purpose in the initial interview, so abruptly closed in the forechains. Shrewd ones may also think it but natural in Billy to set about sounding some of the other impressed men of the ship in order to discover what basis, if any, there was for the emissary's obscure suggestions as to plotting disaffection aboard. Yes, the shrewd may so think. But something more, or, rather, something else, than mere shrewdness is perhaps needful for the due understanding of such a character as Billy Budd's.

As to Claggart, the monomania in the man—if that indeed it were, as involuntarily disclosed by starts in the manifestations detailed, yet in general covered over by his self-contained and rational demeanor—this, like a subterranean fire was eating its way deeper and deeper in him. Something decisive must come of it.

After the mysterious interview in the forechains, the one so abruptly ended there by Billy, nothing especially germane to the story occurred until the events now about to be narrated.

Elsewhere it has been said that in the lack of frigates (of course better sailers than line-of-battle ships) in the English squadron up the Straits at the period, the *Indomitable* was occasionally employed not only as an available substitute for a scout, but at times on detached service of more important kind. This was not alone because of her sailing qualities, not common in a ship of her rate, but quite as much, probably, that the character of her commander, it was thought, specially adapted him for any duty where under unforeseen difficulties a prompt initiative might have to be taken in some matter demanding knowledge and ability in addition to those qualities implied in good seamanship. It was on an expedition of the latter sort, a somewhat distant one, and when the *Indomitable* was almost at her furthest remove from the fleet, that in the latter part of an afternoon watch she unexpectedly came in sight of a ship of the enemy. It proved to be a frigate. The latter perceiving through the glass that the weight of men and metal would be heavily against her, invoking her light heels crowded sail to get away. After a chase urged almost against hope and lasting until about the middle of the first dog watch, she signally succeeded in effecting her escape.

Not long after the pursuit had been given up, and ere the excitement incident thereto had altogether waned away, the Master-at-Arms ascending from his cavernous sphere made his appearance cap in hand by the mainmast respectfully waiting the notice of Captain Vere, then solitary walking the weather side of the quarter-deck, doubtless somewhat chafed at the failure of the pursuit. The spot where Claggart stood was the place allotted to men of lesser grades seeking some more particular interview either with the officer of the deck or the captain himself. But from the latter it was not often that a sailor or petty officer of those days would seek a hearing; only some exceptional cause would, according to established custom, have warranted that.

Presently, just as the commander absorbed in his reflections was on the point of turning aft in his promenade, he became sensible of Claggart's presence, and saw the doffed cap held in deferential expectancy. Here be it said that Captain Vere's personal knowledge of this petty officer had only begun at the time of the ship's last sailing from home, Claggart then for the first, in transfer from a ship detained

for repairs, supplying on board the *Indomitable* the place of a previous master-at-arms disabled and ashore.

No sooner did the commander observe who it was that now deferentially stood awaiting his notice, than a peculiar expression came over him. It was not unlike that which uncontrollably will flit across the countenance of one at unawares encountering a person who though known to him indeed has hardly been long enough known for thorough knowledge, but something in whose aspect nevertheless now for the first provokes a vaguely repellent distaste. But coming to a stand, and resuming much of his wonted official manner, save that a sort of impatience lurked in the intonation of the opening word, he said: "Well? what is it, Master-at-Arms?"

With the air of a subordinate grieved at the necessity of being a messenger of ill tidings, and while conscientiously determined to be frank, yet equally resolved upon shunning overstatement, Claggart, at this invitation or rather summons to disburthen, spoke up. What he said, conveyed in the language of no uneducated man, was to the effect following if not altogether in these words, namely, that during the chace and preparations for the possible encounter he had seen enough to convince him that at least one sailor aboard was a dangerous character in a ship mustering some who not only had taken a guilty part in the late serious troubles, but others also who, like the man in question, had entered His Majesty's service under another form than enlistment.

At this point Captain Vere with some impatience interrupted him: "Be direct, man; say impressed men."

Claggart made a gesture of subservience, and proceeded.

Quite lately he (Claggart) had begun to suspect that on the gun decks some sort of movement prompted by the sailor in question was covertly going on, but he had not thought himself warranted in reporting the suspicion so long as it remained indistinct. But, from what he had that afternoon observed in the man referred to, the suspicion of something clandestine going on had advanced to a point less removed from certainty. He deeply felt, he added, the serious responsibility assumed in making a report involving such possible consequences to the individual mainly concerned, besides tending to augment those natural anxieties which every naval commander must feel in view of

extraordinary outbreaks so recent as those which, he sorrowfully said it, it needed not to name.

Now at the first broaching of the matter Captain Vere, taken by surprise could not wholly dissemble his disquietude. But as Claggart went on, the former's aspect changed into restiveness under something in a witness' manner in giving his testimony. However, he refrained from interrupting him. And Claggart, continuing, concluded with this:

"God forbid, your honor, that the *Indomitable's* should be the experience of the——"

"Never mind that!" here peremptorily broke in the superior, his face altering with anger, instinctively divining the ship that the other was about to name, one in which the Nore Mutiny had assumed a singularly tragical character that for a time jeopardized the life of its commander. Under the circumstances he was indignant at the purposed allusion. When the commissioned officers themselves were on all occasions very heedful how they referred to the recent events, for a petty officer unnecessarily to allude to them in the presence of his captain, this struck him as a most immodest presumption. Besides, to his quick sense of self-respect, it even looked under the circumstances something like an attempt to alarm him. Nor at first was he without some surprise that one who so far as he had hitherto come under his notice had shown considerable tact in his function should in this particular evince such lack of it.

But these thoughts and kindred dubious ones flitting across his mind were suddenly replaced by an intuitional surmise which though as yet obscure in form served practically to affect his reception of the ill tidings. Certain it is that, long versed in everything pertaining to the complicated gun-deck life, which like every other form of life, has its secret mines and dubious side, the side popularly disclaimed, Captain Vere did not permit himself to be unduly disturbed by the general tenor of his subordinate's report. Furthermore, if in view of recent events prompt action should be taken at the first palpable sign of recurring insubordination, for all that, not judicious would it be, he thought, to keep the idea of lingering disaffection alive by undue forwardness in crediting an informer even if his own subordinate and charged among other things with police surveillance of the crew. This feeling would not perhaps have so prevailed with him were it not that

upon a prior occasion the patriotic zeal officially evinced by Claggart had somewhat irritated him as appearing rather supersensible and strained. Furthermore, something even in the official's self-possessed and somewhat ostentatious manner in making his specifications strangely reminded him of a bandsman, a perjurious witness in a capital case before a court-martial ashore of which when a lieutenant he, Captain Vere, had been a member.

Now the peremptory check given to Claggart in the matter of the arrested allusion was quickly followed up by this: "You say that there is at least one dangerous man aboard. Name him."

"William Budd. A foretopman, your honor——"

"William Budd," repeated Captain Vere with unfeigned astonishment; "and mean you the man that Lieutenant Ratcliff took from the merchantman not very long ago—the young fellow who seems to be so popular with the men—Billy, the Handsome Sailor, as they call him?"

"The same, your honor; but, for all his youth and good looks, a deep one. Not for nothing does he insinuate himself into the good will of his shipmates, since at the least all hands will at a pinch say a good word for him at all hazards. Did Lieutenant Ratcliff happen to tell your honor of that adroit fling of Budd's, jumping up in the cutter's bow under the merchantman's stern when he was being taken off? It is even masked by that sort of good humored air that at heart he resents his impressment. You have but noted his fair cheek. A man trap may be under his ruddy-tipped daisies."

Now the *Handsome Sailor*, as a signal figure among the crew, had naturally enough attracted the captain's attention from the first. Though in general not very demonstrative to his officers, he had congratulated Lieutenant Ratcliff upon his good fortune in lighting on such a fine specimen of the *genus homo*, who in the nude might have posed for a statute of young Adam before the Fall.

As to Billy's adieu to the ship *Rights-of-Man*, which the boarding lieutenant had indeed reported to him, but in a deferential way more as a good story than aught else, Captain Vere, though mistakenly understanding it as a satiric sally, had but thought so much the better of the impressed man for it, as a military sailor, admiring the spirit that could take an arbitrary enlistment so merrily and sensibly. The foretopman's

conduct, too, so far as it had fallen under the captain's notice, had confirmed the first happy augury, while the new recruit's qualities as a *sailorman* seemed to be such that he had thought of recommending him to the executive officer for promotion to a place that would more frequently bring him under his own observation, namely, the captaincy of the mizzen-top, replacing there in the starboard watch a man not so young whom partly for that reason he deemed less fitted for the post. Be it parenthesized here that since the mizzen-topmen, having not to handle such breadths of heavy canvas as the lower sails on the mainmast and foremast, a young man if of the right stuff not only seems best adapted to duty there, but in fact is generally selected for the captaincy of that top, and the company under him are light hands and often but striplings. In sum, Captain Vere had from the beginning deemed Billy Budd to be what in the naval parlance of the time was called a "*King's bargain*," that is to say, for His Britannic Majesty's navy a capital investment at small outlay or none at all.

After a brief pause during which the reminiscences above mentioned passed vividly through his mind and he weighed the import of Claggart's last suggestion conveyed in the phrase "pitfall under the daisies," and the more he weighed it the less reliance he felt in the informer's good faith, suddenly he turned upon him and in a low voice: "Do you come to me, Master-at-Arms, with so foggy a tale? As to Budd, cite me an act or spoken word of his confirmatory of what you in general charge against him. Stay," drawing nearer to him, "heed what you speak. Just now, and in a case like this, there is a yardarm-end for the false witness."

"Ah, your honor!" sighed Claggart, mildly shaking his shapely head as in sad deprecation of such unmerited severity of tone. Then, bridling—erecting himself as in virtuous self-assertion, he circumstantially alleged certain words and acts, which collectively, if credited, led to presumptions mortally inculcating Budd. And for some of these averments, he added, substantiating proof was not far.

With gray eyes impatient and distrustful essaying to fathom to the bottom Claggart's calm violet ones, Captain Vere again heard him out, then for the moment stood ruminating. The mood he evinced, Claggart, himself for the time liberated from the other's scrutiny, steadily regarded with a look difficult to render—a look curious of the operation of his

tactics, a look such as might have been that of the spokesman of the envious children of Jacob deceptively imposing upon the troubled patriarch the blood-dyed coat of young Joseph.

Though something exceptional in the moral quality of Captain Vere made him, in earnest encounter with a fellow man, a veritable touchstone of that man's essential nature, yet now as to Claggart and what was really going on in him his feeling partook less of intuitional conviction than of strong suspicion clogged by strange dubieties. The perplexity he evinced proceeded less from aught touching the man informed against—as Claggart doubtless opined—than from considerations how best to act in regard to the informer. At first indeed he was naturally for summoning that substantiation of his allegations which Claggart said was at hand. But such a proceeding would result in the matter at once getting abroad, which in the present stage of it, he thought, might undesirably affect the ship's company. If Claggart was a false witness—that closed the affair. And therefore before trying the accusation he he would first practically test the accuser, and he thought this could be done in a quiet undemonstrative way.

The measure he determined upon involved a shifting of the scene, a transfer to a place less exposed to observation than the broad quarter-deck. For although the few gun-room officers there at the time had, in due observance of naval etiquette, withdrawn to leeward the moment Captain Vere had begun his promenade on the deck's weather side; and though during the colloquy with Claggart they of course ventured not to diminish the distance, and though throughout the interview Captain Vere's voice was far from high and Claggart's silvery and low, and the wind in the cordage and the wash of the sea helped the more to put them beyond earshot; nevertheless, the interview's continuance already had attracted observation from some topmen aloft and other sailors in the waist or further forward.

Having determined upon his measures, Captain Vere forthwith took action. Abruptly turning to Claggart he asked, "Master-at-Arms, is it now Budd's watch aloft?"

"No, your honor." Whereupon, "Mr. Wilkes!" summoning the nearest midshipman, "tell Albert to come to me." Albert was the captain's hammock-boy, a sort of sea-valet in whose discretion and

fidelity his master had much confidence. The lad appeared. "You know Budd the foretopman?"

"I do, sir."

"Go find him. It is his watch off. Manage to tell him him out of earshot that he is wanted aft. Contrive it that he speaks to nobody. Keep him in talk yourself. And not till you get well aft here, not till then let him know that the place where he is wanted is my cabin. You understand. Go.—Master-at-Arms, show yourself on the decks below, and when you think it time for Albert to be coming with his man, stand by quietly to follow the sailor in."

20

Now when the Foretopman found himself closeted there, as it were, in the cabin with the captain and Claggart, he was surprised enough. But it was a surprise unaccompanied by apprehension or distrust. To an immature nature essentially honest and humane, forewarning intimations of subtler danger from one's kind come tardily if at all. The only thing that took shape in the young sailor's mind was this: Yes, the captain, I have always thought, looks kindly upon me. Wonder if he's going to make me his coxswain. I should like that. And maybe now he is going to ask the master-at-arms about me.

"Shut the door there, sentry," said the commander; "stand without, and let nobody come in.—Now, Master-at-Arms, tell this man to his face what you told of him to me," and stood prepared to scrutinize the mutually confronting visages.

With the measured step and calm collected air of an asylum-physician approaching in the public hall some patient beginning to show indications of a coming paroxysm, Claggart deliberately advanced within short range of Billy, and, mesmerically looking him in the eye, briefly recapitulated the accusation.

Not at first did Billy take it in. When he did, the rosetan of his cheek looked struck as by white leprosy. He stood like one impaled and gagged. Meanwhile the accuser's eyes removing not as yet from the blue dilated ones, underwent a phenomenal change, their wonted rich violet color blurring into a muddy purple, those lights of human intelligence losing human expression, gelidly protruding like the alien

eyes of certain uncatalogued creatures of the deep. The first mesmeric glance was one of serpent fascination; the last was as the hungry lurch of the torpedo-fish.

“Speak, man!” said Captain Vere to the transfixed one, struck by his aspect even more than by Claggart’s. “Speak! defend yourself.” Which appeal caused but a strange dumb gesturing and gurgling in Billy, amazement at such an accusation so suddenly sprung on inexperienced non-age; this, and, it may be, horror of the accuser, serving to bring out his lurking defect and in this instance for the time intensifying it into a convulsed tongue-tie; while the intent head and entire form straining forward in an agony of ineffectual eagerness to obey the injunction to speak and defend himself, gave an expression to the face like that of a condemned Vestal priestess in the moment of being buried alive, and in the first struggle against suffocation.

Though at the time Captain Vere was quite ignorant of Billy’s liability to vocal impediment, he now immediately divined it, since vividly Billy’s aspect recalled to him that of a bright young schoolmate of his whom he had once seen struck by much the same startling impotence in the act of eagerly rising in the class to be foremost in response to a testing question put to it by the master. Going close up to the young sailor, and laying a soothing hand on his shoulder, he said: “There is no hurry, my boy. Take your time, take your time.” Contrary to the effect intended, these words so fatherly in tone doubtless touching Billy’s heart to the quick, prompted yet more violent efforts at utterance—efforts soon ending for the time in confirming the paralysis, and bringing to his face an expression which was as a crucifixion to behold. The next instant, quick as the flame from a discharged cannon at night, his right arm shot out, and Claggart dropped to the deck. Whether intentionally or but owing to the young athlete’s superior height, the blow had taken effect full upon the forehead, so shapely and intellectual-looking a feature in the Master-at-Arms, so that the body fell over lengthwise, like a heavy plank tilted from erectness. A gasp or two, and he lay motionless.

“Fated boy,” breathed Captain Vere in tone so low as to be almost a whisper, “what have you done! But here, help me.”

The twain raised the felled one from the loins up into a sitting position. The spare form flexibly acquiesced, but inertly. It was like handling a dead snake. They lowered it back. Regaining erectness Captain Vere with one hand covering his face stood to all appearance as impassive as the object at his feet. Was he absorbed in taking in all the bearings of the event and what was best, not only now at once to be done, but also in the sequel? Slowly he uncovered his face, and the effect was as if the moon emerging from eclipse should reappear with quite another aspect than that which had gone into hiding. The father in him, manifested toward Billy thus far in the scene, was replaced by the military disciplinarian. In his official tone he bade the foretopman retire to a stateroom aft (pointing it out) and there remain till thence summoned. This order Billy in silence mechanically obeyed. Then, going to the cabin-door where it opened on the quarter-deck, Captain Vere said to the sentry without, "Tell somebody to send Albert here." When the lad appeared his master so contrived it that he should not catch sight of the prone one. "Albert," he said to him, "tell the Surgeon I wish to see him. You need not come back till called."

When the Surgeon entered—a self-poised character of that grave sense and experience that hardly anything could take him aback—Captain Vere advanced to meet him, thus unconsciously intercepting his view of Claggart, and, interrupting the other's wonted ceremonious salutation, said, "Nay, tell me how it is with yonder man," directing his attention to the prostrate one.

The Surgeon looked, and for all his self-command, somewhat started at the abrupt revelation. On Claggart's always pallid complexion, thick black blood was now oozing from nostril and ear. To the gazer's professional eye it was unmistakably no living man that he saw.

"Is it so then?" said Captain Vere, intently watching him. "I thought it. But verify it." Whereupon the customary tests confirmed the Surgeon's first glance, who now, looking up in unfeigned concern, cast a look of intense inquisitiveness upon his superior. But Captain Vere, with one hand to his brow, was standing motionless. Suddenly, catching the Surgeon's arm convulsively, he exclaimed, pointing down to the body—"It is the divine judgment on Ananias! Look!"

Disturbed by the excited manner he had never before observed in the *Indomitable's* captain, and as yet wholly ignorant of the affair, the prudent Surgeon nevertheless held his peace, only again looking an earnest interrogation as to what it was that had resulted in such a tragedy.

But Captain Vere was now again motionless, standing absorbed in thought. But again starting, he vehemently exclaimed—"Struck dead by an angel of God! Yet the angel must hang!"

At these passionate interjections, mere incoherences to the listener as yet unapprised of the antecedents, the Surgeon was profoundly discomposed. But now, as recollecting himself, Captain Vere in less passionate tone briefly related the circumstances leading up to the event.

"But come, we must despatch," he added. "Help me to remove him (meaning the body) to yonder compartment," designating one opposite that where the Foretopman remained immured. Anew disturbed by a request that, as implying a desire for secrecy, seemed unaccountably strange to him, there was nothing for the subordinate to do but comply.

"Go now," said Captain Vere with something of his wonted manner—"Go now. I shall presently call a drum-head court. Tell the lieutenants what happened, and tell Mr. Mordant," meaning the captain of marines, "and charge them to keep the matter to themselves."

As the Surgeon withdrew he could not help thinking how more than futile the utmost discretion sometimes proves in this human sphere, subject as it is to unforeseeable fatalities; the prudent method adopted by Captain Vere to obviate publicity and trouble having resulted in an event that necessitated the former, and, under existing circumstances in the navy, indefinitely magnified the latter.

21

Full of disquietude and misgiving, the Surgeon left the cabin. Was Captain Vere suddenly affected in his mind, or was it but a transient excitement, brought about by so strange and extraordinary a happening? As to the drum-head court, it struck the Surgeon as impolitic, if nothing more. The thing to do, he thought, was to place Billy Budd in confinement and in a way dictated by usage, and postpone further action

in so extraordinary a case, to such time as they should rejoin the squadron, and then refer it to the Admiral. He recalled the unwonted agitation of Captain Vere and his excited exclamations so at variance with his normal manner. Was he unhinged? But assuming that he is, it is not so susceptible of proof. What then can he do? No more trying situation is conceivable than that of an officer subordinate under a Captain whom he suspects to be, not mad indeed, but yet not quite unaffected in his intellect. To argue his order to him would be insolence. To resist him would be mutiny.

In obedience to Captain Vere he communicated what had happened to the Lieutenants and Captain of Marines; saying nothing as to the captain's state. They fully shared his own surprise and concern. Like him too they seemed to think that such a matter should be referred to the Admiral.

22

Who in the rainbow can show the line where the violet tint ends and the orange tint begins? Distinctly we see the difference of the colors, but when exactly does the one first blindingly enter into the other? So with sanity and insanity. In pronounced cases, there is no question about them. But in some supposed cases, in various degrees supposedly less pronounced, to draw the exact line of demarcation few will undertake—though for a fee some professional experts will. There is nothing namable but that some men will undertake to do it for pay.

Whether Captain Vere, as the Surgeon professionally and privately surmised, was really the sudden victim of any degree of aberration, one must determine for himself by such light as this narrative may afford.

That the unhappy event which has been narrated could not have happened at a worse juncture was but too true. For it was close on the heel of the suppressed insurrections, an aftertime very critical to naval authority, demanding from every English sea commander two qualities not readily interfusible—prudence and rigour. Moreover, there was something crucial in the case.

In the jugglery of circumstances preceding and attending the event on board the *Indomitable*, and in the light of that martial code whereby it was formally to be judged, innocence and guilt personified in Claggart and Budd in effect changed places. In a legal view the apparent victim

of the tragedy was he who had sought to victimize a man blameless; and the indisputable deed of the latter, navally regarded, constituted the most heinous of military crimes. Yet more. The essential right and wrong involved in the matter, the clearer that might be, so much the worse for the responsibility of a loyal sea commander inasmuch as he was not authorized to determine the matter on that primitive basis.

Small wonder then that the *Indomitable's* Captain, though in general a man of rapid decision, felt that circumspectness not less than promptitude was necessary. Until he could decide upon his course, and in each detail, and not only so, but until the concluding measure was upon the point of being enacted, he deemed it advisable, in view of all the circumstances, to guard as much as possible against publicity. Here he may or may not have erred. Certain it is, however, that subsequently in the confidential talk of more than one or two gun rooms and cabins he was not a little criticized by some officers, a fact imputed by his friends and vehemently by his cousin Jack Denton to professional jealousy of "Starry Vere." Some imaginative ground for invidious comment there was. The maintenance of secrecy in the matter, the confining all knowledge of it for a time to the place where the homicide occurred, the quarter-deck cabin—in these particulars lurked some resemblance to the policy adopted in those tragedies of the palace which have occurred more than once in the capital founded by Peter the Barbarian.

The case indeed was such that fain would the *Indomitable's* captain have deferred taking any action whatever respecting it further than to keep the foretopman a close prisoner till the ship rejoined the squadron and then submitting the matter to the judgement of his admiral.

But a true military officer is in one particular like a true monk. Not with more of self-abnegation will the latter keep his vows of monastic obedience than the former his vows of allegiance to martial duty.

Feeling that unless quick action was taken on it, the deed of the Foretopman, so soon as it should be known on the gun decks, would tend to awaken any slumbering embers of the Nore among the crew, a sense of the urgency of the case overruled in Captain Vere every other consideration. But though a conscientious disciplinarian he was no lover of authority for mere authority's sake. Very far was he from

embracing opportunities for monopolizing to himself the perils of moral responsibility, none at least that could properly be referred to an official superior or shared with him by his official equals or even subordinates. So thinking, he was glad it would not be at variance with usage to turn the matter over to a summary court of his own officers, reserving to himself as the one on whom the ultimate accountability would rest, the right of maintaining a supervision of it, or formally or informally interposing at need. Accordingly a drum-head court was summarily convened, he electing the individuals composing it, the First Lieutenant, the Captain of Marines, and the Sailing Master.

In associating an officer of marines with the sea lieutenants in a case having to do with a sailor, the commander perhaps deviated from general custom. He was prompted thereto by the circumstance that he took that soldier to be a judicious person, thoughtful, and not altogether incapable of grappling with a difficult case unprecedented in his prior experience. Yet even as to him he was not without some latent misgiving, for withal he was an extremely good-natured man, an enjoyer of his dinner, a sound sleeper, and inclined to obesity. A man who though he would always maintain his manhood in battle might not prove altogether reliable in a moral dilemma involving aught of the tragic. As to the First Lieutenant and the Sailing Master, Captain Vere could not but be aware that, though honest natures, of approved gallantry upon occasion, their intelligence was mostly confined to the matter of active seamanship and the fighting demands of their profession. The court was held in the same cabin where the unfortunate affair had taken place. This cabin, the commander's, embraced the entire area under the poop deck. Aft, and on either side, was a small stateroom, the one room temporarily a jail and the other a dead-house, and a yet smaller compartment leaving a space between, expanding forward into a goodly oblong of length coinciding with the ship's beam. A skylight of moderate dimension was overhead, and at each end of the oblong space were two sashed porthole windows easily convertible back into embrasures for short carronades.

All being quickly in readiness, Billy Budd was arraigned, Captain Vere necessarily appearing as the sole witness in the case, and as such temporarily sinking his rank, though singularly maintaining it in a matter apparently trivial, namely, that he testified from the ship's weather side, with that object having caused the court to sit on the

lee side. Concisely he narrated all that had led up to the catastrophe, omitting nothing in Claggart's accusation and deposing as to the manner in which the prisoner had received it. At this testimony the three officers glanced with no little surprise at Billy Budd, the last man they would have suspected either of the mutinous design alleged by Claggart or the undeniable deed he himself had done.

The First Lieutenant, taking judicial primacy and turning toward the prisoner, said, "Captain Vere has spoken. Is it or is it not as Captain Vere says?" In response came syllables not so much impeded in the utterance as might have been anticipated. They were these: "Captain Vere tells the truth. It is just as Captain Vere says, but it is not as the Master-at-Arms said. I have eaten the King's bread and I am true to the King."

"I believe you, my man," said the witness, his voice indicating a suppressed emotion not otherwise betrayed.

"God will bless you for that, Your Honor!" not without stammering said Billy, and all but broke down. But immediately was recalled to self-control by another question, to which with the same emotional difficulty of utterance he said, "No, there was no malice between us. I never bore malice against the Master-at-Arms. I am sorry that he is dead. I did not mean to kill him. Could I have used my tongue I would not have struck him. But he foully lied to my face and in presence of my captain, and I had to say something, and I could only say it with a blow, God help me!"

In the impulsive aboveboard manner of the frank one the court saw confirmed all that was implied in words that just previously had perplexed them, coming as they did from the testifier to the tragedy and promptly following Billy's impassioned disclaimer of mutinous intent—Captain Vere's words, "I believe you, my man."

Next it was asked of him whether he knew of or suspected aught savoring of incipient trouble (meaning mutiny, though the explicit term was avoided) going on in any section of the ship's company.

The reply lingered. This was naturally imputed by the court to the same vocal embarrassment which had retarded or obstructed previous answers. But in main it was otherwise here, the question immediately recalling to Billy's mind the interview with the afterguardsman in the

forechains. But an innate repugnance to playing a part at all approaching that of an informer against one's own shipmates—the same erring sense of uninstructed honor which had stood in the way of his reporting the matter at the time though as a loyal man-of-war-man it was incumbent on him, and failure so to do if charged against him and proven, would have subjected him to the heaviest of penalties—this, with the blind feeling now his, that nothing really was being hatched, prevailed with him. When the answer came it was a negative.

“One question more,” said the officer of marines, now first speaking and with a troubled earnestness. “You tell us that what the Master-at-Arms said against you was a lie. Now why should he have so lied, so maliciously lied, since you declare there was no malice between you?”

At that question unintentionally touching on a spiritual sphere wholly obscure to Billy's thoughts, he was nonplused, evincing a confusion indeed that some observers, such as can readily be imagined, would have construed into involuntary evidence of hidden guilt. Nevertheless he strove some way to answer, but all at once relinquished the vain endeavor, at the same time turning an appealing glance toward Captain Vere, as deeming him his best helper and friend. Captain Vere, who had been seated for a time rose to his feet, addressing the interrogator. “The question you put to him comes naturally enough. But how can he rightly answer it? or anybody else? unless indeed it be he who lies within there,” designating the compartment where lay the corpse. “But the prone one there will not rise to our summons. In effect, though, as it seems to me, the point you make is hardly material. Quite aside from any conceivable motive actuating the Master-at-Arms, and irrespective of the provocation to the blow, a martial court must needs in the present case confine its attention to the blow's consequence, which consequence justly is to be deemed not otherwise than as the striker's deed.”

This utterance, the full significance of which it was not at all likely that Billy took in, nevertheless caused him to turn a wistful interrogative look toward the speaker, a look in its dumb expressiveness not unlike that which a dog of generous breed might turn upon his master, seeking in his face some elucidation of a previous gesture ambiguous to the canine intelligence. Nor was the same utterance without marked effect upon the three officers, more especially the soldier. Couched in it seemed

to them a meaning unanticipated, involving a prejudgement on the speaker's part. It served to augment a mental disturbance previously evident enough.

The soldier once more spoke, in a tone of suggestive dubiety addressing at once his associates and Captain Vere: "Nobody is present—none of the ship's company, I mean—who might shed lateral light, if any is to be had, upon what remains mysterious in this matter."

"That is thoughtfully put," said Captain Vere; "I see your drift. Aye, there is a mystery; but, to use a Scriptural phrase, it is 'a mystery of iniquity,' a matter for psychologic theologians to discuss. But what has a military court to do with it? Not to add that for us any possible investigation of it is cut off by the lasting tongue-tie of—him—in yonder," again designating the mortuary stateroom. "The prisoner's deed—with that alone we have to do."

To this, and particularly the closing reiteration, the marine soldier, knowing not how aptly to reply, sadly abstained from saying aught. The First Lieutenant, who at the outset had not unnaturally assumed primacy in the court, now overrulingly instructed by a glance from Captain Vere, a glance more effective than words, resumed that primacy. Turning to the prisoner, "Budd," he said, and scarce in equable tones, "Budd, if you have aught further to say for yourself, say it now."

Upon this the young sailor turned another quick glance toward Captain Vere; then, as taking a hint from that aspect, a hint confirming his own instinct that silence was now best, replied to the Lieutenant "I have said all, sir."

The marine—the same who had been the sentinel without the cabin door at the time that the Foretopman, followed by the Master-at-Arms, entered it—he, standing by the sailor throughout these judicial proceedings, was now directed to take him back to the after compartment originally assigned to the prisoner and his custodian. As the twain disappeared from view, the three officers, as partially liberated from some inward constraint associated with Billy's mere presence, simultaneously stirred in their seats. They exchanged looks of troubled indecision, yet feeling that decide they must and without long delay. (As) for Captain Vere, he for the time stood unconsciously with his back toward them, apparently in one of his absent fits, gazing out from

a sashed porthole to windward upon the monotonous blank of the twilight sea. But the court's silence continuing, broken only at moments by brief consultations in low earnest tones, this seemed to arm him and energize him. Turning, he to-and-fro paced the cabin athwart, in the returning ascent to windward climbing the slant deck in the ship's lee roll, without knowing it symbolizing thus in his action a mind resolute to surmount difficulties even if against primitive instincts strong as the wind and the sea. Presently he came to a stand before the three. After scanning their faces he stood less as mustering his thoughts for expression than as one only deliberating how best to put them to well-meaning men not intellectually mature, men with whom it was necessary to demonstrate certain principles that were axioms to himself. Similar impatience as to talking is perhaps one reason that deters some minds from addressing any popular assemblies.

When speak he did, something both in the substance of what he said and his manner of saying it, showed the influence of unshared studies modifying and tempering the practical training of an active career. This, along with his phraseology now and then, was suggestive of the grounds whereon rested that imputation of a certain pedantry socially alleged against him by certain naval men of wholly practical cast, captains who nevertheless would frankly concede that His Majesty's navy mustered no more efficient officer of their grade than *Starry Vere*.

What he said was to this effect: "Hitherto I have been but the witness, little more; and I should hardly think now to take another tone, that of your coadjutor, for the time, did I not perceive in you—at the crisis too—a troubled hesitancy, proceeding, I doubt not, from the clash of military duty with moral scruple—scruple vitalized by compassion. For the compassion, how can I otherwise than share it? But, mindful of paramount obligations, I strive against scruples that may tend to enervate decision. Not, gentlemen, that I hide from myself that the case is an exceptional one. Speculatively regarded, it well might be referred to a jury of casuists. But for us here acting not as casuists or moralists, it is a case practical, and under martial law practically to be dealt with.

"But your scruples: do they move as in a dusk? Challenge them. Make them advance and declare themselves. Come now: do they import something like this: If, mindless of palliating circumstances, we

are bound to regard the death of the Master-at-Arms as the prisoner's deed, then does that deed constitute a capital crime whereof the penalty is a mortal one? But in natural justice is nothing but the prisoner's overt act to be considered? How can we adjudge to summary and shameful death a fellow creature innocent before God, and whom we feel to be so?—Does that state it aright? You sign sad assent. Well, I too feel that, the full force of that. It is Nature. But do these buttons that we wear attest that our allegiance is to Nature? No, to the King. Though the ocean, which is inviolate Nature primeval, though this be the element where we move and have our being as sailors, yet as the King's officers lies our duty in a sphere correspondingly natural? So little is that true that, in receiving our commissions, we in the most important regards ceased to be natural free agents. When war is declared are we, the commissioned fighters, previously consulted? We fight at command. If our judgements approve the war, that is but coincidence. So in other particulars. So now. For suppose condemnation to follow these present proceedings. Would it be so much we ourselves that would condemn as it would be martial law operating through us? For that law and the rigour of it, we are not responsible. Our vowed responsibility is in this: That however pitilessly that law may operate, we nevertheless adhere to it and administer it.

“But the exceptional in the matter moves the hearts within you. Even so too is mine moved. But let not warm hearts betray heads that should be cool. Ashore in a criminal case will an upright judge allow himself off the bench to be waylaid by some tender kinswoman of the accused seeking to touch him with her tearful plea? Well the heart here denotes the feminine in man, is as that piteous woman, and hard though it be she, must here be ruled out.”

He paused, earnestly studying them for a moment, then resumed.

“But something in your aspect seems to urge that it is not solely the heart that moves in you, but also the conscience, the private conscience. But tell me whether or not, occupying the position we do, private conscience should not yield to that imperial one formulated in the code under which alone we officially proceed?”

Here the three men moved in their seats, less convinced than agitated by the course of an argument troubling but the more the spontaneous conflict within.

Perceiving which, the speaker paused for a moment, then, abruptly changing his tone, went on.

"To steady us a bit, let us recur to the facts.—In wartime at sea a man-of-war's-man strikes his superior in grade, and the blow kills. Apart from its effect, the blow itself is, according to the Articles of War, a capital crime. Furthermore——"

"Aye, sir," emotionally broke in the officer of marines, "in one sense it was. But surely Budd purposed neither mutiny nor homicide."

"Surely not, my good man. And before a court less arbitrary and more merciful than a martial one that plea would largely extenuate. At the Last Assizes it shall acquit. But how here? We proceed under the law of the Mutiny Act. In feature no child can resemble his father more than that Act resembles in spirit the thing from which it derives—War. In His Majesty's service—in this ship indeed—there are Englishmen forced to fight for the King against their will. Against their conscience, for aught we know. Though as their fellow creatures some of us may appreciate their position, yet as navy officers, what reck we of it? Still less recks the enemy. Our impressed men he would fain cut down in the same swath with our volunteers. As regards the enemy's naval conscripts, some of whom may even share our own abhorrence of the regicidal French Directory, it is the same on our side. War looks but to the frontage, the appearance. And the Mutiny Act, War's child, takes after the father. Budd's intent or nonintent is nothing to the purpose.

"But while, put to it by those anxieties in you which I can not but respect, I only repeat myself—while thus strangely we prolong proceedings that should be summary—the enemy may be sighted and an engagement result. We must do; and one of two things must we do—condemn or let go."

"Can we not convict and yet mitigate the penalty?" asked the junior lieutenant here speaking, and falteringly, for the first.

"Lieutenant, were that clearly lawful for us under the circumstances, consider the consequences of such clemency. The people" (meaning the ship's company) "have native-sense; most of them are familiar with our naval usage and tradition, and how would they take it? Even could you explain to them—which our official position forbids—they, long

molded by arbitrary discipline, have not that kind of intelligent responsiveness that might qualify them to comprehend and discriminate. No, to the people the foretopman's deed however it be worded in the announcement, will be plain homicide committed in a flagrant act of mutiny. What penalty for that should follow, they know. But it does not follow. *Why?* they will ruminare. You know what sailors are. Will they not revert to the recent outbreak at the Nore? Ay. They know the well-founded alarm—the panic it struck throughout England. Your clement sentence they would account pusillanimous. They would think that we flinch, that we are afraid of them—afraid of practising a lawful rigour singularly demanded at this juncture lest it should provoke new troubles. What shame to us such a conjecture on their part, and how deadly to discipline. You see then, whither, prompted by duty and the law, I steadfastly drive. But I beseech you, my friends, do not take me amiss. I feel as you do for this unfortunate boy. But did he know our hearts, I take him to be of that generous nature that he would feel even for us on whom in this military necessity so heavy a compulsion is laid."

With that, crossing the deck he resumed his place by the sashed port-hole, tacitly leaving the three to come to a decision. On the cabin's opposite side the troubled court sat silent. Loyal lieges, plain and practical, though at bottom they dissented from some points Captain Vere had put to them, they were without the faculty, hardly had the inclination, to gainsay one whom they felt to be an earnest man, one, too, not less their superior in mind than in naval rank. But it is not improbable that even such of his words as were not without influence over them, less came home to them than his closing appeal to their instinct as sea officers in the forethought he threw out as to the practical consequences to discipline, considering the unconfirmed tone of the fleet at the time, should a man-of-war's-man's violent killing at sea of a superior in grade be allowed to pass for aught else than a capital crime demanding prompt infliction of the penalty.

Not unlikely they were brought to something more or less akin to that harassed frame of mind which in the year 1842 actuated the commander of the U.S. brig-of-war *Somers* to resolve, under the so-called Articles of War, Articles modeled upon the English Mutiny Act, to resolve upon the execution at sea of a midshipman and two petty of-

ficers as mutineers designing the seizure of the brig. Which resolution was carried out though in a time of peace and within not many days sail of home—an act vindicated by a naval court of inquiry subsequently convened ashore. History, and here cited without comment. True, the circumstances on board the *Somers* were different from those on board the *Indomitable*. But the urgency felt, well-warranted or otherwise, was much the same.

Says a writer whom few know, "Forty years after a battle it is easy for a noncombatant to reason about how it ought to have been fought. It is another thing personally and under fire to direct the fighting while involved in the obscuring smoke of it. Much so with respect to other emergencies involving considerations both practical and moral, and when it is imperative promptly to act. The greater the fog the more it imperils the steamer, and speed is put on though at the hazard of running somebody down. Little ween the snug card-players in the cabin of the responsibilities of the sleepless man on the bridge."

In brief, Billy Budd was formally convicted and sentenced to be hung at the yardarm in the early morning watch, it being now night. Otherwise, as is customary in such cases, the sentence would forthwith have been carried out. In wartime, on the field or in the fleet, a mortal punishment decreed by a drum-head court—on the field sometimes decreed by but a nod from the general—follows without delay on the heel of conviction, without appeal.

23

It was Captain Vere himself who of his own motion communicated the finding of the court to the prisoner, for that purpose going to the compartment where he was in custody and bidding the marine there to withdraw for the time.

Beyond the communication of the sentence, what took place at this interview was never known. But in view of the character of the twain briefly closeted in that state-room, each radically sharing in the rarer qualities of our nature—so rare indeed as to be all but incredible to average minds however much cultivated—some conjectures may be ventured.

It would have been in consonance with the spirit of Captain Vere should he on this occasion have concealed nothing from the condemned

one—should he indeed have frankly disclosed to him the part he himself had played in bringing about the decision, at the same time revealing his actuating motives. On Billy's side it is not improbable that such a confession would have been received in much the same spirit that prompted it. Not without a sort of joy indeed he might have appreciated the brave opinion of him implied in his captain making such a confidant of him. Nor as to the sentence itself could he have been insensible that it was imparted to him as to one not afraid to die. Even more may have been. Captain Vere in the end may have developed the passion sometimes latent under an exterior stoical or indifferent. He was old enough to have been Billy's father. The austere devotee of military duty letting himself melt back into what remains primeval in our formalized humanity may in the end have caught Billy to his heart even as Abraham may have caught young Isaac on the brink of resolutely offering him up in obedience to the exacting behest. But there is no telling the sacrament, seldom if in any case revealed to the gadding world, wherever under circumstances at all akin to those here attempted to be set forth two of great Nature's nobler order embrace. There is privacy at the time, inviolable to the survivor, and holy oblivion, the sequel to each diviner magnanimity, providentially covers all at last.

The first to encounter Captain Vere in act of leaving the compartment was the senior lieutenant. The face he beheld, for the moment one expressive of the agony of the strong, was to that officer, though a man of fifty, a startling revelation. That the condemned one suffered less than he who mainly had effected the condemnation was apparently indicated by the former's exclamation in the scene soon perforce to be touched upon.

24

Of a series of incidents within a brief term rapidly following each other, the adequate narration may take up a term less brief, especially if explanation or comment here and there seem requisite to the better understanding of such incidents. Between the entrance into the cabin of him who never left it alive, and him who when he did leave it left it as one condemned to die, between this and the closeted interview just given, less than an hour and a half had elapsed. It was an interval long enough, however, to awaken speculations among no few of the

ship's company as to what it was that could be detaining in the cabin the Master-at-Arms and the sailor; for a rumor that both of them had been seen to enter it and neither of them had been seen to emerge, this rumor had got abroad upon the gun decks and in the tops; the people of a great warship being in one respect like villagers taking microscopic note of every outward movement or nonmovement going on. When, therefore, in weather not at all tempestuous all hands were called in the second dog watch, a summons under such circumstances not usual in those hours, the crew were not wholly unprepared for some announcement extraordinary, one having connection too with the continued absence of the two men from their wonted haunts.

There was a moderate sea at the time, and the moon, newly risen and near to being at its full, silvered the white spar-deck wherever not blotted by the clear-cut shadows horizontally thrown of fixtures and moving men. On either side the quarter-deck the marine guard under arms was drawn up; and Captain Vere, standing in his place surrounded by all the wardroom officers, addressed his men. In so doing his manner showed neither more nor less than that property pertaining to his supreme position aboard his own ship. In clear terms and concise he told them what had taken place in the cabin: that the Master-at-Arms was dead; that he who had killed him had been already tried by a summary court and condemned to death; and that the execution would take place in the early morning watch. The word *mutiny* was not named in what he said. He refrained too from making the occasion an opportunity for any preachment as to the maintenance of discipline, thinking perhaps that under existing circumstances in the navy the consequence of violating discipline should be made to speak for itself.

Their captain's announcement was listened to by the throng of standing sailors in a dumbness like that of a seated congregation of believers in hell listening to the clergyman's announcement of his Calvinistic text.

At the close, however, a confused murmur went up. It began to wax. All but instantly, then, at a sign, it was pierced and suppressed by shrill whistles of the Boatswain and his Mates piping down one watch.

To be prepared for burial Claggart's body was delivered to certain petty officers of his mess. And here, not to clog the sequel with lateral matters, it may be added that, at a suitable hour, the Master-at-

Arms was committed to the sea with every funeral honor properly belonging to his naval grade.

In this proceeding, as in every public one growing out of the tragedy, strict adherence to usage was observed. Nor in any point could it have been at all deviated from, either with respect to Claggart or Billy Budd, without begetting undesirable speculations in the ship's company, sailors, and more particularly men-of-war's men, being of all men the greatest sticklers for usage.

For similar cause, all communication between Captain Vere and the condemned one ended with the closeted interview already given, the latter being now surrendered to the ordinary routine preliminary to the end. This transfer under guard from the captain's quarters was effected without unusual precautions—at least no visible ones.

If possible not to let the men so much as surmise that their officers anticipate aught amiss from them is the tacit rule in a military ship. And the more that some sort of trouble should really be apprehended, the more do the officers keep that apprehension to themselves, though not the less unostentatious vigilance may be augmented.

In the present instance the sentry placed over the prisoner had strict orders to let no one have communication with him but the chaplain. And certain unobtrusive measures were taken absolutely to insure this point.

25

In a seventy-four of the old order the deck known as the upper gun deck was the one covered over by the spar-deck, which last, though not without its armament, was for the most part exposed to the weather. In general it was at all hours free from hammocks; those of the crew swinging on the lower gun deck and berth deck, the latter being not only a dormitory but also the place for the stowing of the sailors' bags, and on both sides lined with the large chests or movable pantries of the many messes of the men.

On the starboard side of the *Indomitable's* upper gun deck, behold Billy Budd under sentry lying prone in irons in one of the bays formed by the regular spacing of the guns comprising the batteries on either side. All these pieces were of the heavier calibre of that period.

Mounted on lumbering wooden carriages, they were hampered with cumbersome harness of breechen and strong side tackles for running them out. Guns and carriages, together with the long rammers and shorter lintstocks lodged in loops overhead—all these, as customary, were painted black; and the heavy hempen breechens, tarred to the same tint, wore the like livery of the undertakers. In contrast with the funereal hue of these surroundings the prone sailor's exterior apparel, white jumper and white duck trousers, each more or less soiled, dimly glimmered in the obscure light of the bay like a patch of discolored snow in early April lingering at some upland cave's black mouth. In effect he is already in his shroud or the garments that shall serve him in lieu of one. Over him but scarce illuminating him, two battle lanterns swing from two massive beams of the deck above. Fed with the oil supplied by the war contractors (whose gains, honest or otherwise, are in every land an anticipated portion of the harvest of death) with flickering splashes of dirty yellow light, they pollute the pale moonshine, all but ineffectually struggling in obstructed flecks through the open ports from which the tompioned cannon protrude. Other lanterns at intervals serve but to bring out somewhat the obscurer bays, which, like small confessionals or side-chapels in a cathedral, branch from the long dim-vistaed broad aisle between the two batteries of that covered tier.

Such was the deck where now lay the Handsome Sailor. Through the rose-tan of his complexion no pallor could have shown. It would have taken days of sequestration from the winds and the sun to have brought about the effacement of that. But the skeleton in the cheekbone at the point of its angle was just beginning delicately to be defined under the warm-tinted skin. In fervid hearts self-contained some brief experiences devour our human tissue as secret fire in a ship's hold consumes cotton in the bale.

But now lying between the two guns, as nipped in the vice of fate, Billy's agony, mainly proceeding from a generous young heart's virgin experience of the diabolical incarnate and effective in some men—the tension of that agony was over now. It survived not the something healing in the closeted interview with Captain Vere. Without movement, he lay as in a trance. That adolescent expression previously noted as his, taking on something akin to the look of a slumbering child in the cradle when the warm hearth-glow of the still chamber at

night plays on the dimples that at whiles mysteriously form in the cheek, silently coming and going there. For now and then in the gyved one's trance a serene happy light born of some wandering reminiscence or dream would diffuse itself over his face, and then wane away only anew to return.

The Chaplain coming to see him and finding him thus, and perceiving no sign that he was conscious of his presence, attentively regarded him for a space, then, slipping aside, withdrew for the time, peradventure feeling that even he, the minister of Christ, though receiving his stipend from Mars had no consolation to proffer which could result in a peace transcending that which he beheld. But in the small hours he came again. And the prisoner now awake to his surroundings noticed his approach and civilly, all but cheerfully, welcomed him. But it was to little purpose that in the interview following the good man sought to bring Billy Budd to some godly understanding that he must die, and at dawn. True, Billy himself freely referred to his death as a thing close at hand; but it was something in the way that children will refer to death in general, who yet among their other sports will play a funeral with hearse and mourners.

Not that like children Billy was incapable of conceiving what death really is. No; but he was wholly without irrational fear of it, a fear more prevalent in highly civilized communities than those so-called barbarous ones which in all respects stand nearer to unadulterate Nature. And, as elsewhere said, a barbarian Billy radically was; as much so, for all the costume, as his countrymen the British captives, living trophies, made to march in the Roman triumph of Germanicus. Quite as much so as those later barbarians, young men probably, and picked specimens among the earlier British converts to Christianity, at least nominally such and taken to Rome (as today converts from lesser isles of the sea may be taken to London) of whom the pope of that time, admiring the strangeness of their personal beauty so unlike the Italian stamp, their clear ruddy complexion and curled flaxen locks, exclaimed, "Angles" (meaning *English*, the modern derivative) "Angles do you call them? And is it because they look so like angels?" Had it been later in time one would think that the Pope had in mind Fra Angelico's seraphs, some of whom, plucking apples in gardens of the Hesperides, have the faint rose-bud complexion of the more beautiful English girls.

If in vain the good Chaplain sought to impress the young barbarian with ideas of death akin to those conveyed in the skull, dial, and cross-bones on old tombstones, equally futile to all appearance were his efforts to bring home to him the thought of salvation and a Saviour. Billy listened, but less out of awe or reverence perhaps than from a certain natural politeness; doubtless at bottom regarding all that in much the same way that most mariners of his class take any discourse abstract or out of the common tone of the work-a-day world. And this sailor-way of taking clerical discourse is not wholly unlike the way in which the pioneer of Christianity full of transcendent miracles was received long ago on tropic isles by any superior *savage*, so called—a Tahitian say of Captain Cook's time or shortly after that time. Out of natural courtesy he received, but did not appropriate. It was like a gift placed in the palm of an outreached hand upon which the fingers do not close.

But the *Indomitable's* Chaplain was a discreet man possessing the good sense of a good heart. So he insisted not in his vocation here. At the instance of Captain Vere, a lieutenant had apprised him of pretty much everything as to Billy; and since he felt that innocence was even a better thing than religion wherewith to go to Judgement, he reluctantly withdrew; but in his emotion not without first performing an act strange enough in an Englishman, and under the circumstances yet more so in any regular priest. Stooping over, he kissed on the fair cheek his fellow-man, a felon in martial law, one who though on the confines of death he felt he could never convert to a dogma; nor for all that did he fear for his future.

Marvel not that having been made acquainted with the young sailor's essential innocence (an irruption of heretic thought hard to suppress) the worthy man lifted not a finger to avert the doom of such a martyr to martial discipline. So to do would not only have been as idle as invoking the desert but would also have been an audacious transgression of the bounds of his function, one as exactly prescribed to him by military law as that of the boatswain or any other naval officer. Bluntly put, a chaplain is the minister of the Prince of Peace serving in the host of the God of War—Mars. As such, he is as incongruous as that musket of Blücher would be on the altar at Christmas. Why then is he there? Because he indirectly subserves the purpose attested

by the cannon; because too he lends the sanction of the religion of the meek to that which practically is the abrogation of everything but brute Force.

The night, so luminous on the spar-deck but otherwise on the cavernous ones below, levels so like the tiered galleries in a coalmine—the luminous night passed away. But, like the prophet in the chariot disappearing in heaven and dropping his mantle to Elisha, the withdrawing night transferred its pale robe to the breaking day. A meek shy light appeared in the east, where stretched a diaphanous fleece of white furrowed vapor. That light slowly waxed. Suddenly eight bells was struck aft, responded to by one louder metallic stroke from forward. It was four o'clock in the morning. Instantly the silver whistles were heard summoning all hands to witness punishment. Up through the great hatchways rimmed with racks of heavy shot, the watch below came pouring, overspreading with the watch already on deck the space between the mainmast and foremast including that occupied by the capacious launch and the black booms tiered on either side of it, boat and booms making a summit of observation for the powderboys and younger tars. A different group comprising one watch of topmen leaned over the rail of that sea-balcony, no small one in a seventy-four, looking down on the crowd below. Man or boy none spake but in whisper, and few spake at all. Captain Vere—as before, the central figure among the assembled commissioned officers—stood nigh the break of the poop-deck facing forward. Just below him on the quarter-deck the marines in full equipment were drawn up much as at the scene of the promulgated sentence.

At sea in the old time, the execution by halter of a military sailor was generally from the fore-yard. In the present instance, for special reasons, the main-yard was assigned. Under an arm of that weather- or lee-yard the prisoner was presently brought up, the Chaplain attending him. It was noted at the time and remarked upon afterward that in this final scene the good man evinced little or nothing of the perfunctory. Brief speech indeed he had with the condemned one, but the genuine Gospel was less on his tongue than in his aspect and manner toward him. The final preparations personal to the latter being speedily brought to an end by two boatswain's-mates, the consummation impended. Billy stood facing aft. At the penultimate moment, his words, his only ones, words wholly unobstructed in the utterance were

these—"God bless Captain Vere!" Syllables so unanticipated coming from one with the ignominious hemp about his neck—a conventional felon's benediction directed aft toward the quarters of honor; syllables too delivered in the clear melody of a singing-bird on the point of launching from the twig, had a phenomenal effect, not unenhanced by the rare personal beauty of the young sailor spiritualized now through late experiences so poignantly profound.

Without volition as it were, as if indeed the ship's populace were but the vehicles of some vocal current electric, with one voice from alow and aloft, came a resonant sympathetic echo—"God bless Captain Vere!" And yet at that instant Billy alone must have been in their hearts, even as he was in their eyes.

At the pronounced words and the spontaneous echo that voluminously rebounded them, Captain Vere, either through stoic self-control or a sort of momentary paralysis induced by emotional shock, stood erectly rigid as a musket in the ship-armorer's rack.

The hull deliberately recovering from the periodic roll to leeward was just regaining an even keel, when the last signal, a preconcerted dumb one, was given. At the same moment it chanced that the vapory fleece hanging low in the East was shot through with a soft glory as of the fleece of the Lamb of God seen in mystical vision, and simultaneously therewith, watched by the wedged mass of upturned faces, Billy ascended, and, ascending, took the full rose of the dawn.

In the pinioned figure, arrived at the yard-end, to the wonder of all no motion was apparent, none save that created by the ship's motion, in moderate weather so majestic in a great ship ponderously cannoned.

27

A digression

When, some days afterward, in reference to the singularity just mentioned, the purser, a rather ruddy rotund person more accurate as an accountant than profound as a philosopher, said at mess to the surgeon, "What testimony to the force lodged in will power," the latter—saturnine, spare and tall, one in whom a discreet causticity went along with a manner less genial than polite, replied, "Your pardon, Mr. Purser. In a hanging scientifically conducted—and under special orders I myself

directed how Budd's was to be effected—any movement following the completed suspension and originating in the body suspended, such movement indicates mechanical spasm in the muscular system. Hence the absence of that is no more attributable to will power as you call it than to horse-power—begging your pardon.”

“But this muscular spasm you speak of, is not that in a degree more or less invariable in these cases?”

“Assuredly so, Mr. Purser.”

“How then, my good sir, do you account for its absence in this instance?”

“Mr. Purser, it is clear that your sense of the singularity in this matter equals not mine. You account for it by what you call will power, a term not yet included in the lexicon of science. For me, I do not, with my present knowledge, pretend to account for it at all. Even should we assume the hypothesis that at the first touch of the halyards the action of Budd's heart, intensified by extraordinary emotion at its climax, abruptly stopt—much like a watch when in carelessly winding it up you strain at the finish, thus snapping the chain—even under that hypothesis how account for the phenomenon that followed.”

“You admit, then, that the absence of spasmodic movement was phenomenal.”

“It was phenomenal, Mr. Purser, in the sense that it was an appearance the cause of which is not immediately to be assigned.”

“But tell me, my dear sir,” pertinaciously continued the other, “was the man's death effected by the halter, or was it a species of euthanasia?”

“‘Euthanasia,’ Mr. Purser, is something like your ‘*will power*’: I doubt its authenticity as a scientific term—begging your pardon again. It is at once imaginative and metaphysical,—in short, Greek. But,” abruptly changing his tone, “there is a case in the sick bay that I do not care to leave to my assistants. Beg your pardon, but excuse me.” And rising from the mess he formally withdrew.

The silence at the moment of execution and for a moment or two continuing thereafter, a silence but emphasized by the regular wash of the sea against the hull or the flutter of a sail caused by the helmsman's

eyes being tempted astray, this emphasized silence was gradually disturbed by a sound not easily to be verbally rendered. Whoever has heard the freshet-wave of a torrent suddenly swelled by pouring showers in tropical mountains, showers not shared by the plain; whoever has heard the first muffled murmur of its sloping advance through precipitous woods, may form some conception of the sound now heard. The seeming remoteness of its source was because of its murmurous indistinctness since it came from close-by, even from the men massed on the ship's open deck. Being inarticulate, it was dubious in significance further than it seemed to indicate some capricious revulsion of thought or feeling such as mobs ashore are liable to, in the present instance possibly implying a sullen revocation on the men's part of their involuntary echoing of Billy's benediction. But ere the murmur had time to wax into clamor it was met by a strategic command, the more telling that it came with abrupt unexpectedness.

"Pipe down the starboard watch, Boatswain, and see that they go."

Shrill as the shriek of the sea hawk the whistles of the boatswain and his mates pierced that ominous low sound, dissipating it; and yielding to the mechanism of discipline the throng was thinned by one half. For the remainder, most of them were set to temporary employments connected with trimming the yards and so forth, business readily to be got up to serve occasion by any officer-of-the-deck.

Now each proceeding that follows a mortal sentence pronounced at sea by a drum-head court is characterised by promptitude not perceptibly merging into hurry, though bordering that. The hammock, the one which had been Billy's bed when alive, having already been ballasted with shot and otherwise prepared to serve for his canvas coffin, the last offices of the sea-undertakers, the Sail-Maker's mates, were now speedily completed. When everything was in readiness a second call for all hands, made necessary by the strategic movement before mentioned, was sounded, and now to witness burial.

The details of this closing formality it needs not to give. But when the tilted plank let slide its freight into the sea, a second strange human murmur was heard, blended now with another inarticulate sound proceeding from certain larger seafowl, whose attention having been attracted by the peculiar commotion in the water resulting from the heavy sloped dive of the shotted hammock into the sea, flew screaming to the spot.

So near the hull did they come that the stridor or bony creak of their gaunt double-jointed pinions was audible. As the ship under light airs passed on, leaving the burial-spot astern, they still kept circling it low down with the moving shadow of their outstretched wings and the croaked requiem of their cries.

Upon sailors as superstitious as those of the age preceding ours, men-of-war's men, too, who had just beheld the prodigy of repose in the form suspended in air and now foundering in the deeps; to such mariners the action of the seafowl, though dictated by mere animal greed for prey, was big with no prosaic significance. An uncertain movement began among them, in which some encroachment was made. It was tolerated but for a moment. For suddenly the drum beat to quarters, which familiar sound, happening at least twice every day, had upon the present occasion a signal peremptoriness in it. True martial discipline long continued superinduces in average man a sort of impulse (of) docility whose operation at the official sound of command much resembles in its promptitude the effect of an instinct.

The drumbeat dissolved the multitude, distributing most of them along the batteries of the two covered gun decks. There, as wont, the guns' crews stood by their respective cannon erect and silent. In due course the First Officer, sword under arm and standing in his place on the quarter-deck, formally received the successive reports of the sworded lieutenants commanding the sections of batteries below, the last of which reports being made, the summed report he delivered with the customary salute to the commander. All this occupied time, which in the present case was the object of beating to quarters at an hour prior to the customary one. That such variance from usage was authorized by an officer like Captain Vere, a martinet as some deemed him, was evidence of the necessity for unusual action implied in what he deemed to be temporarily the mood of his men. "With mankind," he would say, "forms, measured forms, are everything; and that is the import couched in the story of Orpheus with his lyre spellbinding the wild denizens of the wood." And this he once applied to the disruption of forms going on across the Channel and the consequences thereof.

At this unwonted muster at quarters, all proceeded as at the regular hour. The band on the quarter-deck played a sacred air, after which the chaplain went through the customary morning service. That done,

the drum beat the retreat, and, toned by music and religious rites subserving the discipline and purpose of war, the men in their wonted orderly manner dispersed to the places allotted them when not at the guns.

And now it was full day. The fleece of low-hanging vapor had vanished, licked up by the sun that late had so glorified it. And the circumambient air in the clearness of its serenity was like smooth white marble in the polished block not yet removed from the marble dealer's yard.

29

The symmetry of form attainable in pure fiction can not so readily be achieved in a narration essentially having less to do with fable than with fact. Truth uncompromisingly told will always have its ragged edges; hence the conclusion of such a narration is apt to be less finished than an architectural finial.

How it fared with the Handsome Sailor during the year of the Great Mutiny has been faithfully given. But though properly the story ends with his life, something in way of sequel will not be amiss. Three brief chapters will suffice.

In the general rechristening under the Directory of the craft originally forming the navy of the French monarchy, the *St. Louis* line-of-battle ship was named the *Atheiste*. Such a name, like some other substituted ones in the Revolutionary fleet, while proclaiming the infidel audacity of the ruling power was yet, though not so intended to be, the aptest name, if one consider it, ever given to a war-ship, far more so indeed than the *Devastation*, the *Erebus* (the *Hell*) and similar names bestowed upon fighting ships.

On the return-passage to the English fleet from the detached cruise during which occurred the events already recorded, the *Indomitable* fell in with the *Atheiste*. An engagement ensued, during which Captain Vere, in the act of putting his ship alongside the enemy with a view of throwing his boarders across her bulwarks, was hit by a musket ball from a porthole of the enemy's main cabin. More than disabled he dropped to the deck and was carried below to the same cockpit where some of his men already lay. The senior Lieutenant took command. Under him the enemy was finally captured and though much crippled

was by rare good fortune successfully taken into Gibraltar, an English port not very distant from the scene of the fight. There Captain Vere with the rest of the wounded was put ashore. He lingered for some days, but the end came. Unhappily he was cut off too early for the Nile and Trafalgar. The spirit that spite its philosophic austerity may yet have indulged in the most secret of all passions, ambition, never attained to the fulness of fame.

Not long before death, while lying under the influence of that magical drug which, soothing the physical frame, mysteriously operates on the subtler element in man, he was heard to murmur words inexplicable to his attendant—"Billy Budd, Billy Budd." That these were not the accents of remorse would seem clear from what the attendant said to the *Indomitable's* senior officer of marines, who, as the most reluctant to condemn of the members of the drum-head court, too well knew, though here he kept the knowledge to himself, who Billy Budd was.

30

Some few weeks after the execution, among other matters under the head of *News from the Mediterranean*, there appeared in a naval chronicle of the time, an authorized weekly publication, an account of the affair. It was doubtless for the most part written in good faith, though the medium, partly rumor, through which the facts must have reached the writer, served to deflect and in part falsify them. The account was as follows:

"On the tenth of the last month a deplorable occurrence took place on board H.M.S. *Indomitable*. John Claggart, the ship's Master-at-Arms, discovering that some sort of plot was incipient among an inferior section of the ship's company, and that the ringleader was one William Budd, he, Claggart, in the act of arraigning the man before the captain was vindictively stabbed to the heart by the suddenly drawn sheath knife of Budd.

"The deed and the implement employed sufficiently suggest that, though mustered into the service under an English name, the assassin was no Englishman, but one of those aliens adopting English cognomens whom the present extraordinary necessities of the service have caused to be admitted into it in considerable numbers.

"The enormity of the crime and the extreme depravity of the criminal appear the greater in view of the character of the victim, a middle-aged man respectable and discreet, belonging to that minor official grade, the petty officers, upon whom, as none know better than the commissioned gentlemen, the efficiency of His Majesty's navy so largely depends. His function was a responsible one, at once onerous and thankless, and his fidelity in it the greater because of his strong patriotic impulse. In this instance, as in so many other instances in these days, the character of this unfortunate man signally refutes, if refutation were needed, that peevish saying attributed to the late Dr. Johnson, that patriotism is the last refuge of a scoundrel.

"The criminal paid the penalty of his crime. The promptitude of the punishment has proved salutary. Nothing amiss is now apprehended aboard H.M.S. *Indomitable*."

The above, appearing in a publication now long ago superannuated and forgotten, is all that hitherto has stood in human record to attest what manner of men respectively were John Claggart and Billy Budd.

31

Everything is for a term remarkable in navies. Any tangible object associated with some striking incident of the service is converted into a monument. The spar from which the Foretopman was suspended was for some few years kept trace of by the bluejackets. Their knowledge followed it from ship to dockyard and again from dockyard to ship, still pursuing it even when at last reduced to a mere dockyard boom. To them a chip of it was as a piece of the Cross. Ignorant though they were of the secret facts of the tragedy, and not thinking but that the penalty was somehow unavoidably inflicted from the naval point of view, for all that they instinctively felt that Billy was a sort of man as incapable of mutiny as of wilful murder. They recalled the fresh young image of the Handsome Sailor, that face never deformed by a sneer or subtler vile freak of the heart within. Their impression of him was doubtless deepened by the fact that he was gone, and in a measure mysteriously gone. At the time on the gun decks of the *Indomitable* the general estimate of his nature and its unconscious simplicity eventually found rude utterance from another foretopman, one of his own watch, gifted, as some sailors are, with an artless poetic

temperament; the tarry hands made some lines which, after circulating among the shipboard crew for a while, finally got rudely printed at Portsmouth as a ballad. The title given to it was the sailor's.

Billy in the Darbies

Good of the Chaplain to enter Lone Bay
And down on his marrow-bones here and pray
For the likes just o' me, Billy Budd.—But look:
Through the port comes the moonshine astray!
It tips the guard's cutlas and silvers this nook;
But 'twill die in the dawning of Billy's last day.
A jewel-block they'll make of me tomorrow,
Pendant pearl from the yardarm-end
Like the eardrop I gave to Bristol Molly—
Oh, 'tis me, not the sentence they'll suspend.
Aye, Aye, all is up; and I must up too
Early in the morning, aloft from alow.
On an empty stomach, now, never it would do.
They'll give me a nibble—bit o' biscuit ere I go.
Sure, a messmate will reach me the last parting cup;
But, turning heads away from the hoist and the belay,
Heaven knows who will have the running of me up!
No pipe to those halyards.—But aren't it all sham?
A blur's in my eyes; it is dreaming that I am.
A hatchet to my hawser? all adrift to go?
The drum roll to grog, and Billy never know?
But Donald he has promised to stand by the plank;
So I'll shake a friendly hand ere I sink.
But—no! It is dead then I'll be, come to think.—
I remember Taff the Welshman when he sank.
And his cheek it was like the budding pink
But me they'll lash me in hammock, drop me deep.
Fathoms down, fathoms down, how I'll dream fast asleep.
I feel it stealing now. Sentry, are you there?
Just ease this darbies at the wrist, and roll me over fair,
I am sleepy, and the oozy weeds about me twist.

April 19th

1891

GUY DE MAUPASSANT

ROSALIE PRUDENT

In 1850, the year of Honoré de Balzac's death, France saw the birth of another great story teller: Guy de Maupassant. His life (1850–1893) was short, and his last years were spent in an asylum, but he produced some 260 short stories, in addition to several novels and novelettes. The themes of his short stories range from tragedy to the most hilarious aspects of human existence. De Maupassant's study of the law is reflected in the tale that follows—the account of an infanticide committed under such extenuating circumstances that the jury cannot help but sympathize with the accused.

THERE was a mystery in that affair about Rosalie Prudent, which neither the jury, nor the judge, nor the prosecuting attorney of the republic himself could understand.

The girl Rosalie was a servant at the house of the Varambot family, of Mantes. She became *enceinte*, and, unknown to her employers, had given birth to a child in the garret, during the night, and had then killed the child and buried it in the garden.

It was the ordinary story of most of the infanticides committed by servants. But one act remained inexplicable. The examination of the girl's room had resulted in the discovery of a complete *layette* for an infant, made by Rosalie herself, who had passed her nights during three months in cutting out the garments and sewing them. The grocer where she had bought her candles (paid for out of her wages), in order to perform this long task, came forward and testified to the fact of their purchase. In addition it was learned that the midwife of the town, informed by Rosalie of her condition, had given her all the advice and information necessary in case the child should be born at a time when aid was impossible to obtain. She had found a place also, at Poissy, for Rosalie Prudent, who foresaw her loss of situation, as the Varambots were severe on the subject of morality.

They appeared in court, the man and his wife, small provincials of moderate means, exasperated against the vulgar creature who had besmirched the immaculateness of their house. They would have liked to see her guillotined at once, without trial, and they overwhelmed her with insults which in their mouths became accusations.

The guilty one, a tall, handsome girl of lower Normandy, fairly well educated for her station, wept without ceasing, and made no reply to

them or to anyone. The Court came to the conclusion that she had accomplished that act of barbarity in a moment of despair and insanity, since everything indicated that she had hoped to keep her infant and bring it up.

The judge tried once more to make her speak, to get her to acknowledge her crime, and having asked her with great kindness to do so, he made her understand at last that the jury sitting there to judge her did not wish her death, but were ready to pity her.

The girl appeared to be making up her mind to speak at last.

"Tell us now at first who is the father of that child," said the judge.

Until that moment she had refused obstinately to divulge this fact. Now she replied suddenly, looking straight at her employers, who had come there in a rage to calumniate her.

"It is Monsieur Joseph, the nephew of Monsieur Varambot!"

Varambot and his wife started, and both cried at the same time:

"It is false! She lies! It is infamous!"

The judge bade them be silent, and said:

"Continue, I beg of you, and tell us how it happened."

Then the girl began to speak hurriedly, seeming to find some comfort for her poor, solitary, bruised heart in giving vent to her sorrow before these severe-looking men, whom she had taken until then for enemies and inflexible judges.

"Yes, it was Monsieur Joseph Varambot—it happened when he came for his vacation last summer."

"What is the occupation of this Monsieur Joseph Varambot?"

"He is underofficer in the artillery, Monsieur. He was two months at the house—two months of the summer. I wasn't thinking of anything when he began to look at me, and then to say things to me, and finally to make love to me the whole day long. I was easy, Monsieur! He told me I was a handsome girl, that I pleased him, that I was to his taste. For myself, he pleased me, to be sure. What would you have? Anyone listens to those things, when one is alone—as I am. I am alone on the earth, Monsieur. There is no one to whom I can talk—no one

to whom I can tell my troubles. I have neither father, nor mother, nor brother, nor sister—no one! He seemed like a brother who had come to me when he began to talk to me. And then he asked me to go down to the river one evening, so that we might talk without making so much noise. And I went down there. Could I have known what would happen? He put his arms around my waist—of course I didn't want to,—no, no! I couldn't help it. I wanted to cry, the air was so soft and warm—it was clear moonlight—I couldn't help it! No, I swear it to you, I couldn't help it—he did what he pleased. That lasted three weeks, as long as he remained. I would have followed him to the end of the world. But he went away, and I didn't know that I was *enceinte*—I didn't! I didn't know it until the month afterward.”

She began to weep so violently that they were obliged to give her time to compose herself. Then the judge spoke, in the tone of a father confessor: “Go on, my girl, go on.”

She continued: “When I knew that I was *enceinte*, I told Madame Boudin, the midwife, to whom one can tell these things; and I asked her what to do in case that happened without her. And then I made the clothes, night after night, until one o'clock in the morning; and then I looked for another place, for I knew very well I should be discharged; but I wished to remain in that house until the end, in order to economize the pennies, seeing that I had no money and that I would need it for the little one.”

“Then you did not wish to kill him?”

“Oh! surely not, Monsieur.”

“Why did you kill him, then?”

“Here's how it happened. It came sooner than I thought it would. It took me in the kitchen as I was washing my dishes. Monsieur and Madame Varambot had retired already, so I went upstairs without trouble, holding to the banisters. I lay down on the floor in my room, so as not to soil the bed. That lasted perhaps one hour—but it may have been two or three—I can't tell, so much pain did I have,—and then—and then it was over, and I took up my baby!

“Oh, yes! I was happy, for sure! I did everything that Madame Boudin told me, everything! Then I laid him on the bed,—and then another pain began, and it was a pain to kill anyone. If you knew what

that was, you others, you wouldn't do as much, I'm sure! I fell on my knees, and then on my back on the floor, and then it began all over again, and that, too, lasted one hour, or perhaps two, and there I was all alone. Finally, there came another little one, yes, another, two of them, like that! I took it up, as I took the first one, and I put it on the bed by the side of the other. One—two! Can it be possible, I said? Two babies! And I, who earn twenty francs a month! Say—was it possible for me to take care of them? To care for one—yes, I might do that by depriving myself, but not two!

“The thought of that turned my head. What do I know about it, I? Could I choose, say? Do I know? I saw myself come to my last day! I couldn't keep two, so I put the pillow on them without knowing what I was doing—and I threw myself on the bed and upon them, too. And I stayed there, rolling and crying, until daylight, which I saw through the window. I looked at them—they were both dead under the pillow, quite dead. Then I took them under my arm, I went down the stairs, and out in the garden; I took the gardener's spade and I buried them in the ground, as deep as I could, one here and the other there, not together, so that they could not talk of their mother, if they do talk, the little dead children. Do I know?

“And then I went back to my bed, and I was so sick that I could not get up. They made the doctor come, and he understood everything. That is the truth, Monsieur the judge. Do what you want to me. I am ready.”

During her speech half of the jurymen had been wiping their eyes over and over again, trying to hide their emotion. All the women in the court room were sobbing.

“At what spot in the garden did you bury the other infant?” asked the judge.

“Which one did you find?” Rosalie inquired.

“The one that was under the artichokes.”

“Ah! the other is buried under the strawberries beside the well!” The poor girl began again to sob so loud that it was enough to break one's heart to hear her. The jury acquitted her.

The Threshold Of The Gilded Age

STEPHEN VINCENT BENET

THE DEVIL AND DANIEL WEBSTER

This story, whose author received the Pulitzer Prize for his Civil War epic, *John Brown's Body*, is a tribute to Daniel Webster written in the tradition of the medieval church plays where the Devil is a protagonist. In the trial before "Justice Hathorne", Daniel Webster wins a verdict for his client, Jabez Stone, against Lucifer as opposing counsel.

IT'S A STORY they tell in the border country, where Massachusetts joins Vermont and New Hampshire.

Yes, Dan'l Webster's dead—or, at least, they buried him. But every time there's a thunderstorm around Marshfield, they say you can hear his rolling voice in the hollows of the sky. And they say that if you go to his grave and speak loud and clear, "Dan'l Webster—Dan'l Webster!" the ground'll begin to shiver and the trees begin to shake. And after a while you'll hear a deep voice saying, "Neighbor, how stands the Union?" Then you better answer the Union stands as she stood, rock-bottomed and copper-sheathed, one and indivisible, or he's liable to rear right out of the ground. At least, that's what I was told when I was a youngster.

You see, for a while, he was the biggest man in the country. He never got to be president, but he was the biggest man. There were thousands that trusted in him right next to God Almighty, and they told stories about him that were like the stories of patriarchs and such. They said, when he stood up to speak, stars and stripes came right out in the sky, and once he spoke against a river and made it sink into the ground. They said, when he walked the woods with his fishing rod, Killall, the trout would jump out of the streams right into his pockets, for they knew it was no use putting up a fight against him; and, when he argued a case, he could turn on the harps of the blessed and the shaking of the earth underground. That was the kind of man he was, and his big farm up at Marshfield was suitable to him. The chickens he raised were all white meat down through the drumsticks, the cows were tended like children, and the big ram he called Goliath had horns with a curl like a morning-glory vine and could butt through an

iron door. But Dan'l wasn't one of your gentlemen farmers; he knew all the ways of the land, and he'd be up by candlelight to see that the chores got done. A man with a mouth like a mastiff, a brow like a mountain, and eyes like burning anthracite—that was Dan'l Webster in his prime. And the biggest case he argued never got written down in the books, for he argued it against the devil, nip and tuck and no holds barred. And this is the way I used to hear it told.

There was a man named Jabez Stone, lived at Cross Corners, New Hampshire. He wasn't a bad man to start with, but he was an unlucky man. If he planted corn, he got borers; if he planted potatoes, he got blight. He had good-enough land, but it didn't prosper him; he had a decent wife and children, but the more children he had, the less there was to feed them. If stones cropped up in his neighbor's field, boulders boiled up in his; if he had a horse with the spavins, he'd trade it for one with the staggers and give something extra. There's some folks bound to be like that, apparently. But one day Jabez Stone got sick of the whole business.

He'd been plowing that morning and he'd just broke the plowshare on a rock that he could have sworn hadn't been there yesterday. And, as he stood looking at the plowshare, the off horse began to cough—that ropy kind of cough that means sickness and the horse doctors. There were two children down with the measles, his wife was ailing, and he had a whitlow on his thumb. It was about the last straw for Jabez Stone. "I vow," he said, and he looked around him kind of desperate—"I vow it's enough to make a man want to sell his soul to the devil! And I would, too, for two cents!"

Then he felt a kind of queerness come over him at having said what he'd said; though, naturally, being a New Hampshireman, he wouldn't take it back. But, all the same, when it got to be evening and, as far as he could see, no notice had been taken, he felt relieved in his mind, for he was a religious man. But notice is always taken, sooner or later, just like the Good Book says. And, sure enough, next day, about suppertime, a soft-spoken, dark-dressed stranger drove up in a handsome buggy and asked for Jabez Stone.

Well, Jabez told his family it was a lawyer, come to see him about a legacy. But he knew who it was. He didn't like the looks of the stranger, nor the way he smiled with his teeth. They were white teeth,

and plentiful—some say they were filed to a point, but I wouldn't vouch for that. And he didn't like it when the dog took one look at the stranger and ran away howling, with his tail between his legs. But having passed his word, more or less, he stuck to it, and they went out behind the barn and made their bargain. Jabez Stone had to prick his finger to sign, and the stranger lent him a silver pin. The wound healed clean, but it left a little white scar.

After that, all of a sudden, things began to pick up and prosper for Jabez Stone. His cows got fat and his horses sleek, his crops were the envy of the neighborhood, and lightning might strike all over the valley, but it wouldn't strike his barn. Pretty soon, he was one of the prosperous people of the county; they asked him to stand for selectman, and he stood for it; there began to be talk of running him for state senate. All in all, you might say the Stone family was as happy and contented as cats in a dairy. And so they were, except for Jabez Stone.

He'd been contented enough, the first few years. It's a great thing when bad luck turns; it drives most other things out of your head. True, every now and then, especially in rainy weather, the little white scar on his finger would give him a twinge. And once a year, punctual as clockwork, the stranger with the handsome buggy would come driving by. But the sixth year, the stranger lighted, and, after that, his peace was over for Jabez Stone.

The stranger came up through the lower field, switching his boots with a cane—they were handsome black boots, but Jabez Stone never liked the look of them, particularly the toes. And, after he'd passed the time of day, he said, "Well, Mr. Stone, you're a hummer! It's a very pretty property you've got here, Mr. Stone."

"Well, some might favor it and others might not," said Jabez Stone, for he was a New Hampshireman.

"Oh, no need to decry your industry!" said the stranger, very easy, showing his teeth in a smile. "After all, we know what's been done, and it's been according to contract and specifications. So when—ahem—the mortgage falls due next year, you shouldn't have any regrets."

"Speaking of that mortgage, mister," said Jabez Stone, and he looked around for help to the earth and the sky, "I'm beginning to have one or two doubts about it."

"Doubts?" said the stranger, not quite so pleasantly.

"Why, yes," said Jabez Stone. "This being the U.S.A. and me always having been a religious man." He cleared his throat and got bolder. "Yes, sir," he said, "I'm beginning to have considerable doubts as to that mortgage holding in court."

"There's courts and courts," said the stranger, clicking his teeth. "Still, we might as well have a look at the original document." And he hauled out a big black pocketbook, full of papers. "Sherwin, Slater, Stevens, Stone," he muttered. "I, Jabez Stone, for a term of seven years—Oh, it's quite in order, I think."

But Jabez Stone wasn't listening, for he saw something else flutter out of the black pocketbook. It was something that looked like a moth, but it wasn't a moth. And as Jabez Stone stared at it, it seemed to speak to him in a small sort of piping voice, terrible small and thin, but terrible human. "Neighbor Stone!" it squeaked. "Neighbor Stone! Help me! For God's sake, help me!"

But before Jabez Stone could stir hand or foot, the stranger whipped out a big bandanna handkerchief, caught the creature in it, just like a butterfly, and started tying up the ends of the bandanna.

"Sorry for the interruption," he said. "As I was saying——"

But Jabez Stone was shaking all over like a scared horse.

"That's Miser Stevens' voice!" he said, in a croak. "And you've got him in your handkerchief!"

The stranger looked a little embarrassed.

"Yes, I really should have transferred him to the collecting box," he said with a simper, "but there were some rather unusual specimens there and I didn't want them crowded. Well, well, these little contretemps will occur."

"I don't know what you mean by contertan," said Jabez Stone, "but that was Miser Stevens' voice! And he ain't dead! You can't tell me he is! He was just as spry and mean as a woodchuck, Tuesday!"

"In the midst of life——" said the stranger, kind of pious. "Listen!" Then a bell began to toll in the valley and Jabez Stone listened, with the sweat running down his face. For he knew it was tolled for Miser Stevens and that he was dead.

"These long-standing accounts," said the stranger with a sigh; "one really hates to close them. But business is business."

He still had the bandanna in his hand, and Jabez Stone felt sick as he saw the cloth struggle and flutter.

"Are they all as small as that?" he asked hoarsely.

"Small?" said the stranger, "Oh, I see what you mean. Why, they vary." He measured Jabez Stone with his eyes, and his teeth showed. "Don't worry, Mr. Stone," he said. "You'll go with a very good grade. I wouldn't trust you outside the collection box. Now, a man like Dan'l Webster, of course—well, we'd have to build a special box for him, and even at that, I imagine the wingspread would astonish you. But, in your case, as I was saying——"

"Put that handkerchief away!" said Jabez Stone, and he began to beg and to pray. But the best he could get at the end was a three years' extension, with conditions.

But till you make a bargain like that, you've got no idea of how fast four years can run. By the last months of those years, Jabez Stone's known all over the state and there's talk of running him for governor—and it's dust and ashes in his mouth. For every day, when he gets up, he thinks, "There's one more night gone," and every night when he lies down, he thinks of the black pocketbook and the soul of Miser Stevens, and it makes him sick at heart. Till, finally, he can't bear it any longer, and, in the last days of the last year, he hitches up his horse and drives off to seek Dan'l Webster. For Dan'l was born in New Hampshire, only a few miles from Cross Corners, and it's well known that he has a particular soft spot for old neighbors.

It was early in the morning when he got to Marshfield, but Dan'l was up already, talking Latin to the farm hands and wrestling with the ram, Goliath, and trying out a new trotter and working up speeches to make against John C. Calhoun. But when he heard a New Hampshireman had come to see him, he dropped everything else he was doing, for that was Dan'l's way. He gave Jabez Stone a breakfast that five men couldn't eat, went into the living history of every man and woman in Cross Corners, and finally asked him how he could serve him.

Jabez Stone allowed that it was a kind of mortgage case.

"Well, I haven't pleaded a mortgage case in a long time, and I don't generally plead now, except before the Supreme Court," said Dan'l, "but if I can, I'll help you."

"Then I've got hope for the first time in ten years," said Jabez Stone, and told him the details.

Dan'l walked up and down as he listened, hands behind his back, now and then asking a question, now and then plunging his eyes at the floor, as if they'd bore through it like gimlets. When Jabez Stone had finished, Dan'l puffed out his cheeks and blew. Then he turned to Jabez Stone and a smile broke over his face like the sunrise over Monadnock.

"You've certainly given yourself the devil's own row to hoe, Neighbor Stone," he said, "but I'll take your case."

"You'll take it?" said Jabez Stone, hardly daring to believe.

"Yes," said Dan'l Webster. "I've got about seventy-five other things to do and the Missouri Compromise to straighten out, but I'll take your case. For if two New Hampshiremen aren't a match for the devil, we might as well give the country back to the Indians." Then he shook Jabez Stone by the hand and said, "Did you come down here in a hurry?"

"Well, I admit I made time," said Jabez Stone.

"You'll go back faster," said Dan'l Webster, and he told 'em to hitch up Constitution and Constellation to the carriage. They were matched grays with one white forefoot, and they stepped like greased lightning.

Well, I won't describe how excited and pleased the whole Stone family was to have the great Dan'l Webster for a guest, when they finally got there. Jabez Stone had lost his hat on the way, blown off when they overtook a wind, but he didn't take much account of that. But after supper he sent the family off to bed, for he had most particular business with Mr. Webster. Mrs. Stone wanted them to sit in the front parlor, but Dan'l Webster knew front parlors and said he preferred the kitchen. So it was there they sat, waiting for the stranger, with a jug on the table between them and a bright fire on the hearth—the stranger being scheduled to show up on the stroke of midnight, according to specifications.

Well, most men wouldn't have asked for better company than Dan'l Webster and a jug. But with every tick of the clock Jabez Stone got sadder and sadder. His eyes roved round, and though he sampled the jug you could see he couldn't taste it. Finally, on the stroke of eleven-thirty o'clock he reached over and grabbed Dan'l Webster by the arm.

"Mr. Webster, Mr. Webster!" he said, and his voice was shaking with fear and a desperate courage. "For God's sake, M. Webster, harness your horses and get away from this place while you can!"

"You've brought me a long way, neighbor, to tell me you don't like my company," said Dan'l Webster, quite peaceable, pulling at the jug.

"Miserable wretch that I am!" groaned Jabez Stone. "I've brought you a devilish way, and now I see my folly. Let him take me if he wills. I don't hanker after it, I must say, but I can stand it. But you're the Union's stay and New Hampshire's pride! He mustn't get you, Mr. Webster! He mustn't get you!"

Dan'l Webster looked at the distracted man, all gray and shaking in the firelight, and laid a hand on his shoulder.

"I'm obliged to you, Neighbor Stone," he said gently. "It's kindly thought of. But there's a jug on the table and a case in hand. And I never left a jug or a case half finished in my life."

And just at that moment there was a sharp rap on the door.

"Ah," said Dan'l Webster, very coolly, "I thought your clock was a trifle slow, Neighbor Stone." He stepped to the door and opened it. "Come in!" he said.

The stranger came in—very dark and tall he looked in the firelight. He was carrying a box under his arm—a black, japanned box with little air holes in the lid. At the sight of the box, Jabez Stone gave a low cry and shrank into a corner of the room.

"Mr. Webster, I presume," said the stranger, very polite, but with his eyes glowing like a fox's deep in the woods.

"Attorney of record for Jabez Stone," said Dan'l Webster, but his eyes were glowing too. "Might I ask your name?"

"I've gone by a good many," said the stranger carelessly. "Perhaps Scratch will do for the evening. I'm often called that in these regions."

Then he sat down at the table and poured himself a drink from the jug. The liquor was cold in the jug, but it came steaming into the glass.

"And now," said the stranger, smiling and showing his teeth, "I shall call upon you, as a law-abiding citizen, to assist me in taking possession of my property."

Well, with that the argument began—and it went hot and heavy. At first, Jabez Stone had a flicker of hope, but when he saw Dan'l Webster being forced back at point after point, he just scrunched in his corner, with his eyes on that japanned box. For there wasn't any doubt as to the deed or the signature—that was the worst of it. Dan'l Webster twisted and turned and thumped his fist on the table, but he couldn't get away from that. He offered to compromise the case; the stranger wouldn't hear of it. He pointed out the property had increased in value, and state senators ought to be worth more; the stranger stuck to the letter of the law. He was a great lawyer, Dan'l Webster, but we know who's the King of Lawyers, as the Good Book tells us, and it seemed as if, for the first time, Dan'l Webster had met his match.

Finally, the stranger yawned a little. "Your spirited efforts on behalf of your client do you credit, Mr. Webster," he said, "but if you have no more arguments to adduce, I'm rather pressed for time"—and Jabez Stone shuddered.

Dan'l Webster's brow looked dark as a thundercloud.

"Pressed or not, you shall not have this man!" he thundered. "Mr. Stone is an American citizen, and no American citizen may be forced into the service of a foreign prince. We fought England for that in '12 and we'll fight all hell for it again!"

"Foreign?" said the stranger. "And who calls me a foreigner?"

"Well, I never yet heard of the dev—of your claiming American citizenship," said Dan'l Webster with surprise.

"And who with better right?" said the stranger, with one of his terrible smiles. "When the first wrong was done to the first Indian, I was there. When the first slaver put out for the Congo, I stood on her deck. Am I not in your books and stories and beliefs, from the first settlements on? Am I not spoken of, still, in every church in New England? 'Tis true the North claims me for a Southerner and the

South for a Northerner, but I am neither. I am merely an honest American like yourself—and of the best descent—for, to tell the truth, Mr. Webster, though I don't like to boast of it, my name is older in this country than yours."

"Aha!" said Dan'l Webster, with the veins standing out in his forehead. "Then I stand on the Constitution! I demand a trial for my client!"

"The case is hardly one for an ordinary court," said the stranger, his eyes flickering. "And, indeed, the lateness of the hour——"

"Let it be any court you choose, so it is an American judge and an American jury!" said Dan'l Webster in his pride. "Let it be the quick or the dead; I'll abide the issue!"

"You have said it," said the stranger, and pointed his finger at the door. And with that, and all of a sudden, there was a rushing of wind and a noise of footsteps. They came, clear and distinct, through the night. And yet, they were not like the footsteps of living men.

"In God's name, who comes by so late?" cried Jabez Stone, in an ague of fear.

"The jury Mr. Webster demands," said the stranger, sipping at his boiling glass. "You must pardon the rough appearance of one or two; they will have come a long way."

And with that the fire burned blue and the door blew open and twelve men entered one by one.

If Jabez Stone had been sick with terror before, he was blind with terror now. For there was Walter Butler, the loyalist, who spread fire and horror through the Mohawk Valley in the times of the Revolution; and there was Simon Girty, the renegade, who saw white men burned at the stake and whooped with the Indians to see them burn. His eyes were green, like a catamount's, and the stains on his hunting shirt did not come from the blood of the deer. King Philip was there, wild and proud as he had been in life, with the great gash in his head that gave him his death wound, and cruel Governor Dale, who broke men on the wheel. There was Morton of Merry Mount, who so vexed the Plymouth Colony, with his flushed, loose, handsome face and his hate of the godly. There was Teach, the bloody pirate, with his black

beard curling on his breast. The Reverend John Smeet, with his strangler's hands and his Geneva gown, walked as daintily as he had to the gallows. The red print of the rope was still around his neck, but he carried a perfumed handkerchief in one hand. One and all, they came into the room with the fires of hell still upon them, and the stranger named their names and their deeds as they came, till the tale of twelve was told. Yet the stranger had told the truth—they had all played a part in America.

"Are you satisfied with the jury, Mr. Webster?" said the stranger mockingly, when they had taken their places.

The sweat stood upon Dan'l Webster's brow, but his voice was clear.

"Quite satisfied," he said. "Though I miss General Arnold from the company."

"Benedict Arnold is engaged upon other business," said the stranger, with a glower. "Ah, you asked for a justice, I believe."

He pointed his finger once more, and a tall man, soberly clad in Puritan garb, with the burning gaze of the fanatic, stalked into the room and took his judge's place.

"Justice Hathorne is a jurist of experience," said the stranger. "He presided at certain witch trials once held in Salem. There were others who repented of the business later, but not he."

"Repent of such notable wonders and undertakings?" said the stern old justice. "Nay, hang them—hang them all!" And he muttered to himself in a way that struck ice into the soul of Jabez Stone.

Then the trial began, and, as you might expect, it didn't look anyways good for the defense. And Jabez Stone didn't make much of a witness in his own behalf. He took one look at Simon Girty and screeched, and they had to put him back in his corner in a kind of swoon.

It didn't halt the trial, though; the trial went on, as trials do. Dan'l Webster had faced some hard juries and hanging judges in his time, but this was the hardest he'd ever faced, and he knew it. They sat there with a kind of glitter in their eyes, and the stranger's smooth voice went on and on. Every time he'd raise an objection, it'd be "Objection sustained," but whenever Dan'l objected, it'd be "Objection denied." Well, you couldn't expect fair play from a fellow like this Mr. Scratch.

It got to Dan'l in the end, and he began to heat, like iron in the forge. When he got up to speak he was going to flay that stranger with every trick known to the law, and the judge and jury too. He didn't care if it was contempt of court or what would happen to him for it. He didn't care any more what happened to Jabez Stone. He just got madder and madder, thinking of what he'd say. And yet, curiously enough, the more he thought about it, the less he was able to arrange his speech in his mind.

Till, finally, it was time for him to get up on his feet, and he did so, all ready to bust out with lightnings and denunciations. But before he started he looked over the judge and jury for a moment, such being his custom. And he noticed the glitter in their eyes was twice as strong as before, and they all leaned forward. Like hounds just before they get the fox, they looked, and the blue mist of evil in the room thickened as he watched them. Then he saw what he'd been about to do, and he wiped his forehead, as a man might who's just escaped falling into a pit in the dark.

For it was him they'd come for, not only Jabez Stone. He read it in the glitter of their eyes and in the way the stranger hid his mouth with one hand. And if he fought them with their own weapons, he'd fall into their power; he knew that, though he couldn't have told you how. It was his own anger and horror that burned in their eyes; and he'd have to wipe that out or the case was lost. He stood there for a moment, his black eyes burning like anthracite. And then he began to speak.

He started off in a low voice, though you could hear every word. They say he could call on the harps of the blessed when he chose. And this was just as simple and easy as a man could talk. But he didn't start out by condemning or reviling. He was talking about the things that make a country a country, and a man a man.

And he began with the simple things that everybody's known and felt—the freshness of a fine morning when you're young, and the taste of food when you're hungry, and the new day that's every day when you're a child. He took them up and he turned them in his hands. They were good things for any man. But without freedom, they sickened. And when he talked of those enslaved, and the sorrows of

slavery, his voice got like a big bell. He talked of the early days of America and the men who had made those days. It wasn't a spread-eagle speech, but he made you see it. He admitted all the wrong that had ever been done. But he showed how, out of the wrong and the right, the suffering and the starvations, something new had come. And everybody had played a part in it, even the traitors.

Then he turned to Jabez Stone and showed him as he was—an ordinary man who'd had hard luck and wanted to change it. And, because he'd wanted to change it, now he was going to be punished for all eternity. And yet there was good in Jabez Stone, and he showed that good. He was hard and mean, in some ways, but he was a man. There was sadness in being a man, but it was a proud thing too. And he showed what the pride of it was till you couldn't help feeling it. Yes, even in hell, if a man was a man, you'd know it. And he wasn't pleading for any one person any more, though his voice rang like an organ. He was telling the story and the failures and the endless journey of mankind. They got tricked and trapped and bamboozled, but it was a great journey. And no demon that was ever foaled could know the inwardness of it—it took a man to do that.

The fire began to die on the hearth and the wind before morning to blow. The light was getting gray in the room when Dan'l Webster finished. And his words came back at the end to New Hampshire ground, and the one spot of land that each man loves and clings to. He painted a picture of that, and to each one of that jury he spoke of things long forgotten. For his voice could search the heart, and that was his gift and his strength. And to one, his voice was like the forest and its secrecy, and to another like the sea and the storms of the sea; and one heard the cry of his lost nation in it, and another saw a little harmless scene he hadn't remembered for years. But each saw something. And when Dan'l Webster finished he didn't know whether or not he'd saved Jabez Stone. But he knew he'd done a miracle. For the glitter was gone from the eyes of judge and jury, and, for the moment, they were men again, and knew they were men.

"The defense rests," said Dan'l Webster, and stood there like a mountain. His ears were still ringing with his speech, and he didn't hear anything else till he heard Judge Hathorne say, "The jury will retire to consider its verdict."

Walter Butler rose in his place and his face had a dark, gay pride on it.

"The jury has considered its verdict," he said, and looked the stranger full in the eye. "We find for the defendant, Jabez Stone."

With that, the smile left the stranger's face, but Walter Butler did not flinch.

"Perhaps 'tis not strictly in accordance with the evidence," he said, "but even the damned may salute the eloquence of Mr. Webster."

With that, the long crow of a rooster split the gray morning sky, and judge and jury were gone from the room like a puff of smoke and as if they had never been there. The stranger turned to Dan'l Webster, smiling wryly.

"Major Butler was always a bold man," he said. "I had not thought him quite so bold. Nevertheless, my congratulations, as between two gentlemen."

"I'll have that paper first, if you please," said Dan'l Webster, and he took it and tore it into four pieces. It was queerly warm to the touch. "And now," he said, "I'll have you!" and his hand came down like a bear trap on the stranger's arm. For he knew that once you bested anybody like Mr. Scratch in a fair fight, his power on you was gone. And he could see that Mr. Scratch knew it too.

The stranger twisted and wriggled, but he couldn't get out of that grip. "Come, come, Mr. Webster," he said, smiling palely. "This sort of thing is ridic—ouch!—is ridiculous. If you're worried about the costs of the case, naturally, I'd be glad to pay——"

"And so you shall!" said Dan'l Webster, shaking him till his teeth rattled. "For you'll sit right down at that table and draw up a document, promising never to bother Jabez Stone nor his heirs or assigns nor any other New Hampshireman till doomsday! For any hates we want to raise in this state, we can raise ourselves, without assistance from strangers."

"Ouch!" said the stranger. "Ouch! Well, they never did run very big to the barrel, but—ouch!—I agree!"

So he sat down and drew up the document. But Dan'l Webster kept his hand on his coat collar all the time.

"And, now, may I go?" said the stranger, quite humble, when Dan'l'd seen the document was in proper and legal form.

"Go?" said Dan'l, giving him another shake. "I'm still trying to figure out what I'll do with you. For you've settled the costs of the case, but you haven't settled with me. I think I'll take you back to Marshfield," he said, kind of reflective. "I've got a ram there named Goliath that can butt through an iron door. I'd kind of like to turn you loose in his field and see what he'd do."

Well, with that the stranger began to beg and to plead. And he begged and he pled so humble that finally Dan'l, who was naturally kindhearted, agreed to let him go. The stranger seemed terrible grateful for that and said, just to show they were friends, he'd tell Dan'l's fortune before leaving. So Dan'l agreed to that, though he didn't take much stock in fortunetellers ordinarily. But, naturally, the stranger was a little different.

Well, he pried and he peered at the lines in Dan'l's hands. And he told him one thing and another that was quite remarkable. But they were all in the past.

"Yes, all that's true, and it happened," said Dan'l Webster. "But what's to come in the future?"

The stranger grinned, kind of happily, and shook his head.

"The future's not as you think it," he said. "It's dark. You have a great ambition, Mr. Webster."

"I have," said Dan'l firmly, for everybody knew he wanted to be president.

"It seems almost within your grasp," said the stranger, "but you will not attain it. Lesser men will be made president and you will be passed over."

"And, if I am, I'll still be Daniel Webster," said Dan'l. "Say on."

"You have two strong sons," said the stranger, shaking his head. "You look to found a line. But each will die in war and neither reach greatness."

"Live or die, they are still my sons," said Dan'l Webster. "Say on."

"You have made great speeches," said the stranger. "You will make more."

"Ah," said Dan'l Webster.

"But the last great speech you make will turn many of your own against you," said the stranger. "They will call you Ichabod; they will call you by other names. Even in New England, some will say you have turned your coat and sold your country, and their voices will be loud against you till you die."

"So it is an honest speech, it does not matter what men say," said Dan'l Webster. Then he looked at the stranger and their glances locked.

"One question," he said. "I have fought for the Union all my life. Will I see that fight won against those who would tear it apart?"

"Not while you live," said the stranger, grimly, "but it will be won. And after you are dead, there are thousands who will fight for your cause, because of words that you spoke."

"Why, then you long-barreled, slab-sided, lantern-jawed fortunetelling note shaver!" said Dan'l Webster, with a great roar of laughter, "be off with you to your own place before I put my mark on you! For, by the thirteen original colonies, I'd go to the Pit itself to save the Union!"

And with that he drew back his foot for a kick that would have stunned a horse. It was only the tip of his shoe that caught the stranger, but he went flying out of the door with his collecting box under his arm.

"And now," said Dan'l Webster, seeing Jabez Stone beginning to rouse from his swoon, "let's see what's left in the jug, for it's dry work talking all night. I hope there's pie for breakfast, Neighbor Stone."

But they say that whenever the devil comes near Marshfield, even now, he gives it a wide berth. And he hasn't been seen in the state of New Hampshire from that day to this. I'm not talking about Massachusetts or Vermont.

BRET HARTE

**COLONEL STARBOTTLE FOR
THE PLAINTIFF**

Francis Bret Harte (1836–1902) is known for his humorous tales of the American West. Outstanding among these stories is the jewel of legal fiction reprinted here; a magnificent portrayal of the “heart balm” action in all of its blackmail-tarnished glory.

IT HAD BEEN a day of triumph for Colonel Starbottle. First, for his personality, as it would have been difficult to separate the Colonel's achievements from his individuality; second, for his oratorical abilities as a sympathetic pleader; and third, for his functions as the leading counsel for the Eureka Ditch Company *versus* the State of California. On his strictly legal performances in this issue I prefer not to speak; there were those who denied them, although the jury had accepted them in the face of the ruling of the half-amused, half-cynical Judge himself. For an hour they had laughed with the Colonel, wept with him, been stirred to personal indignation or patriotic exaltation by his passionate and lofty periods—what else could they do than give him their verdict? If it was alleged by some that the American eagle, Thomas Jefferson, and the Resolutions of '98 had nothing whatever to do with the contest of a ditch company over a doubtfully worded legislative document; that wholesale abuse of the State Attorney and his political motives had not the slightest connection with the legal question raised—it was, nevertheless, generally accepted that the losing party would have been only too glad to have the Colonel on their side. And Colonel Starbottle knew this, as, perspiring, florid, and panting, he rebuttoned the lower buttons of his blue frockcoat, which had become loosed in an oratorical spasm, and readjusted his old-fashioned, spotless shirt frill above it as he strutted from the courtroom amidst the hand-shakings and acclamations of his friends.

And here an unprecedented thing occurred. The Colonel absolutely declined spirituous refreshment at the neighboring Palmetto Saloon, and declared his intention of proceeding directly to his office in the adjoining square. Nevertheless the Colonel quitted the building alone, and apparently unarmed except for his faithful gold-headed stick, which

hung as usual from his forearm. The crowd gazed after him with undisguised admiration of this new evidence of his pluck. It was remembered also that a mysterious note had been handed to him at the conclusion of his speech—evidently a challenge from the State Attorney. It was quite plain that the Colonel—a practised duellist—was hastening home to answer it.

But herein they were wrong. The note was in a female hand, and simply requested the Colonel to accord an interview with the writer at the Colonel's office as soon as he left the court. But it was an engagement that the Colonel—as devoted to the fair sex as he was to the "code"—was no less prompt in accepting. He flicked away the dust from his spotless white trousers and varnished boots with his handkerchief, and settled his black cravat under his Byron collar as he neared his office. He was surprised, however, on opening the door of his private office to find his visitor already there; he was still more startled to find her somewhat past middle age and plainly attired. But the Colonel was brought up in a school of Southern politeness, already antique in the republic, and his bow of courtesy belonged to the epoch of his shirt frill and strapped trousers. No one could have detected his disappointment in his manner, albeit his sentences were short and incomplete. But the Colonel's colloquial speech was apt to be fragmentary incoherencies of his larger oratorical utterances.

"A thousand pardons—for—er—having kept a lady waiting—er! But—er—congratulations of friends—and—er—courtesy due to them—er—interfered with—though perhaps only heightened—by procrastination—pleasure of—ha!" And the Colonel completed his sentence with a gallant wave of his fat but white and well-kept hand.

"Yes! I came to see you along o' that speech of yours. I was in court. When I heard you gettin' it off on that jury, I says to myself that's the kind o' lawyer *I* want. A man that's flowery and convincin'! Just the man to take up our case."

"Ah! It's a matter of business, I see," said the Colonel, inwardly relieved, but externally careless. "And—er—may I ask the nature of case?"

"Well! it's a breach-o'-promise suit," said the visitor, calmly.

If the Colonel had been surprised before, he was now really startled, and with an added horror that required all his politeness to conceal.

Breach-of-promise cases were his peculiar aversion. He had always held them to be a kind of litigation which could have been obviated by the prompt killing of the masculine offender—in which case he would have gladly defended the killer. But a suit for damages!—*damages!*—with the reading of love-letters before a hilarious jury and court, was against all his instincts. His chivalry was outraged; his sense of humor was small—and in the course of his career he had lost one or two important cases through an unexpected development of this quality in a jury.

The woman had evidently noticed his hesitation, but mistook its cause. “It ain’t me—but my darter.”

The Colonel recovered his politeness. “Ah! I am relieved, my dear madam! I could hardly conceive a man ignorant enough to—er—er—throw away such evident good fortune—or base enough to deceive the trustfulness of womanhood—matured and experienced only in the chivalry of our sex, ha!”

The woman smiled grimly. “Yes!—it’s my darter, Zaidee Hooker—so ye might spare some of them pretty speeches for *her*—before the jury.”

The Colonel winced slightly before this doubtful prospect, but smiled. “Ha! Yes!—certainly—the jury. But—er—my dear lady, need we go as far as that? Cannot this affair be settled—er—out of court? Could not this—er—individual—be admonished—told that he must give satisfaction—personal satisfaction—for his dastardly conduct—to—er—near relative—or even valued personal friend? The—er—arrangements necessary for that purpose I myself would undertake.”

He was quite sincere; indeed, his small black eyes shone with that fire which a pretty woman or an “affair of honor” could alone kindle. The visitor stared vacantly at him, and said, slowly:

“And what good is that goin’ to do *us*?”

“Compel him to—er—perform his promise,” said the Colonel, leaning back in his chair.

“Ketch him doin’ it!” said the woman, scornfully. “No—that ain’t wot we’re after. We must make him *pay*! Damages—and nothin’ short o’ *that*.”

The Colonel bit his lip. "I suppose," he said, gloomily, "you have documentary evidence—written promises and protestations—er—er—love-letters, in fact?"

"No—nary a letter! Ye see, that's jest it—and that's where *you* come in. You've got to convince that jury yourself. You've got to show what it is—tell the whole story your own way. Lord! to a man like you that's nothin'."

Startling as this admission might have been to any other lawyer, Starbottle was absolutely relieved by it. The absence of any mirth-provoking correspondence, and the appeal solely to his own powers of persuasion, actually struck his fancy. He lightly put aside the compliment with a wave of his white hand.

"Of course," said the Colonel, confidently, "there is strongly presumptive and corroborative evidence? Perhaps you can give me—er—a brief outline of the affair?"

"Zaidee kin do that straight enough, I reckon," said the woman; "what I want to know first is, kin you take the case?"

The Colonel did not hesitate; his curiosity was piqued. "I certainly can. I have no doubt your daughter will put me in possession of sufficient facts and details—to constitute what we call—er—a brief."

"She kin be brief enough—or long enough—for the matter of that," said the woman, rising. The Colonel accepted this implied witticism with a smile.

"And when may I have the pleasure of seeing her?" he asked, politely.

"Well, I reckon as soon as I can trot out and call her. She's just outside, meanderin' in the road—kinder shy, ye know, at first."

She walked to the door. The astounded Colonel nevertheless gallantly accompanied her as she stepped out into the street and called shrilly, "You Zaidee!"

A young girl here apparently detached herself from a tree and the ostentatious perusal of an old election poster, and sauntered down towards the office door. Like her mother, she was plainly dressed; unlike her, she had a pale, rather refined face, with a demure mouth and downcast eyes. This was all the Colonel saw as he bowed profoundly and led the way into his office, for she accepted his salutations

without lifting her head. He helped her gallantly to a chair, on which she seated herself sideways, somewhat ceremoniously, with her eyes following the point of her parasol as she traced a pattern on the carpet. A second chair offered to the mother that lady, however, declined. "I reckon to leave you and Zaidee together to talk it out," she said; turning to her daughter, she added, "Jest you tell him all, Zaidee," and before the Colonel could rise again, disappeared from the room. In spite of his professional experience, Starbottle was for a moment embarrassed. The young girl, however, broke the silence without looking up.

"Adoniram K. Hotchkiss," she began, in a monotonous voice, as if it were a recitation addressed to the public, "first began to take notice of me a year ago. Arter that—off and on——"

"One moment," interrupted the astounded Colonel; "do you mean Hotchkiss the President of the Ditch Company?" He had recognized the name of a prominent citizen—a rigid ascetic, taciturn, middle-aged man—a deacon—and more than that, the head of the company he had just defended. It seemed inconceivable.

"That's him," she continued, with eyes still fixed on the parasol and without changing her monotonous tone—"off and on ever since. Most of the time at the Free-Will Baptist church—at morning service, prayer-meetings, and such. And at home—outside—er—in the road."

"Is it this gentleman—Mr. Adoniram K. Hotchkiss—who—er—promised marriage?" stammered the Colonel.

"Yes."

The Colonel shifted uneasily in his chair. "Most extraordinary! for—you see—my dear young lady—this becomes—a—er—most delicate affair."

"That's what maw said," returned the young woman, simply, yet with the faintest smile playing around her demure lips and downcast cheek.

"I mean," said the Colonel, with a pained yet courteous smile, "that this—er—gentleman—is in fact—er—one of my clients."

"That's what maw said, too, and of course your knowing him will make it all the easier for you," said the young woman.

A slight flush crossed the Colonel's cheek as he returned quickly and a little stiffly, "On the contrary—er—it may make it impossible for me to—er—act in this matter."

The girl lifted her eyes. The Colonel held his breath as the long lashes were raised to his level. Even to an ordinary observer that sudden revelation of her eyes seemed to transform her face with subtle witchery. They were large, brown, and soft, yet filled with an extraordinary penetration and prescience. They were the eyes of an experienced woman of thirty fixed in the face of a child. What else the Colonel saw there Heaven only knows! He felt his inmost secrets plucked from him—his whole soul laid bare—his vanity, belligerency, gallantry—even his medieval chivalry, penetrated, and yet illuminated, in that single glance. And when the eyelids fell again, he felt that a greater part of himself had been swallowed up in them.

"I beg your pardon," he said, hurriedly. "I mean—this matter may be arranged—er—amicably. My interest with—and as you wisely say—my—er—knowledge of my client—er—Mr. Hotchkiss—may affect—a compromise."

"And *damages*," said the young girl, readdressing her parasol, as if she had never looked up.

The Colonel winced. "And—er—undoubtedly *compensation*—if you do not press a fulfilment of the promise. Unless," he said, with an attempted return to his former easy gallantry, which, however, the recollection of her eyes made difficult, "it is a question of—er—the affections?"

"Which?" said his fair client, softly.

"If you still love him?" explained the Colonel, actually blushing.

Zaidee again looked up; again taking the Colonel's breath away with eyes that expressed not only the fullest perception of what he had *said*, but of what he thought and had not said, and with an added subtle suggestion of what he might have thought. "That's tellin'," she said, dropping her long lashes again. The Colonel laughed vacantly. Then feeling himself growing imbecile, he forced an equally weak gravity. "Pardon me—I understand there are no letters; may I know the way in which he formulated his declaration and promises?"

"Hymn-books," said the girl, briefly.

"I beg your pardon," said the mystified lawyer.

"Hymn-books—marked words in them with pencil—and passed 'em on to me," repeated Zaidee. "Like 'love,' 'dear,' 'precious,' 'sweet,' and 'blessed,' " she added, accenting each word with a push of her parasol on the carpet. "Sometimes a whole line outer Tate and Brady—and *Solomon's Song*, you know, and sich."

"I believe," said the Colonel, loftily, "that the—er—phrases of sacred psalmody lend themselves to the language of the affections. But in regard to the distinct promise of marriage—was there—er—no *other* expression?"

"Marriage Service in the prayer-book—lines and words outer that—all marked," said Zaidee. The Colonel nodded naturally and approvingly. "Very good. Were others cognizant of this? Were there any witnesses?"

"Of course not," said the girl. "Only me and him. It was generally at church-time—or prayer-meeting. Once, in passing the plate, he slipped one o' them peppermint lozenges with the letters stamped on it 'I love you' for me to take."

The Colonel coughed slightly. "And you have the lozenge?"

"I ate it," said the girl, simply.

"Ah," said the Colonel. After a pause he added, delicately: "But were these attentions—er—confined to—er—sacred precincts? Did he meet you elsewhere?"

"Useter pass our house on the road," returned the girl, dropping into her monotonous recital, "and useter signal."

"Ah, signal?" repeated the Colonel, approvingly.

"Yes! He'd say 'Kerrow,' and I'd say 'Kerree.' Suthing like a bird, you know."

Indeed, as she lifted her voice in imitation of the call the Colonel thought it certainly very sweet and birdlike. At least as *she* gave it. With his remembrance of the grim deacon he had doubts as to the melodiousness of *his* utterance. He gravely made her repeat it.

"And after that signal?" he added, suggestively.

"He'd pass on," said the girl.

The Colonel coughed slightly, and tapped his desk with his penholder.

"Were there any endearments—er—caresses—er—such as taking your hand—er—clasping your waist?" he suggested with a gallant yet respectful sweep of his white hand and bowing of his head;—"er—slight pressure of your fingers in the changes of a dance—I mean," he corrected himself, with an apologetic cough—"in the passing of the plate?"

"No;—he was not what you'd call 'fond,' " returned the girl.

"Ah! Adoniram K. Hotchkiss was not 'fond' in the ordinary acceptance of the word," said the Colonel, with professional gravity.

She lifted her disturbing eyes, and again absorbed his in her own. She also said "Yes," although her eyes in their mysterious prescience of all he was thinking disclaimed the necessity of any answer at all. He smiled vacantly. There was a long pause. On which she slowly disengaged her parasol from the carpet pattern and stood up.

"I reckon that's about all," she said.

"Er—yes—but one moment," said the Colonel, vaguely. He would have liked to keep her longer, but with her strange premonition of him he felt powerless to detain her, or explain his reason for doing so. He instinctively knew she had told him all; his professional judgment told him that a more hopeless case had never come to his knowledge. Yet he was not daunted, only embarrassed. "No matter," he said, vaguely. "Of course I shall have to consult with you again." Her eyes again answered that she expected he would, but she added, simply, "When?"

"In the course of a day or two," said the Colonel, quickly. "I will send you word." She turned to go. In his eagerness to open the door for her he upset his chair, and with some confusion, that was actually youthful, he almost impeded her movements in the hall, and knocked his broad-brimmed Panama hat from his bowing hand in a final gallant sweep. Yet as her small, trim, youthful figure, with its simple Leghorn straw hat confined by a blue bow under her round chin, passed away before him, she looked more like a child than ever.

The Colonel spent that afternoon in making diplomatic inquiries. He found his youthful client was the daughter of a widow who had a small ranch on the cross-roads, near the new Free-Will Baptist church—the evident theatre of this pastoral. They led a secluded life; the girl being little known in the town, and her beauty and fascination apparently not yet being a recognized fact. The Colonel felt a pleasurable relief at this, and a general satisfaction he could not account for. His few inquiries concerning Mr. Hotchkiss only confirmed his own impressions of the alleged lover—a serious-minded, practically abstracted man—abstentive of youthful society, and the last man apparently capable of levity of the affections or serious flirtation. The Colonel was mystified—but determined of purpose—whatever that purpose might have been.

The next day he was at his office at the same hour. He was alone—as usual—the Colonel's office really being his private lodgings, disposed in connecting rooms, a single apartment reserved for consultation. He had no clerk; his papers and briefs being taken by his faithful body-servant and ex-slave "Jim" to another firm who did his office-work since the death of Major Stryker—the Colonel's only law partner, who fell in a duel some years previous. With a fine constancy the Colonel still retained his partner's name on his door-plate—and, it was alleged by the superstitious, kept a certain invincibility also through the *manes* of that lamented and somewhat feared man.

The Colonel consulted his watch, whose heavy gold case still showed the marks of a providential interference with a bullet destined for its owner, and replaced it with some difficulty and shortness of breath in his fob. At the same moment he heard a step in the passage, and the door opened to Adoniram K. Hotchkiss. The Colonel was impressed; he had a duellist's respect for punctuality.

The man entered with a nod and the expectant, inquiring look of a busy man. As his feet crossed that sacred threshold the Colonel became all courtesy; he placed a chair for his visitor, and took his hat from his half-reluctant hand. He then opened a cupboard and brought out a bottle of whiskey and two glasses.

"A—er—slight refreshment, Mr. Hotchkiss," he suggested, politely. "I never drink," replied Hotchkiss, with the severe attitude of a total abstainer. "Ah—er—not the finest bourbon whiskey, selected by a

Kentucky friend? No? Pardon me! A cigar, then—the mildest Havana.”

“I do not use tobacco nor alcohol in any form,” repeated Hotchkiss, ascetically. “I have no foolish weaknesses.”

The Colonel’s moist, beady eyes swept silently over his client’s sallow face. He leaned back comfortably in his chair, and half closing his eyes as in dreamy reminiscence, said, slowly: “Your reply, Mr. Hotchkiss, reminds me of—er—sing’lar circumstances that—er—occurred, in point of fact—at the St. Charles Hotel, New Orleans. Pinkey Hornblower—personal friend—invited Senator Doolittle to join him in social glass. Received, sing’larly enough, reply similar to yours. ‘Don’t drink nor smoke?’ said Pinkey. ‘Gad, sir, you must be mighty sweet on the ladies.’ Ha!” The Colonel paused long enough to allow the faint flush to pass from Hotchkiss’s cheek, and went on, half closing his eyes: “‘I allow no man, sir, to discuss my personal habits,’ said Doolittle, over his shirt collar. ‘Then I reckon shootin’ must be one of those habits,’ said Pinkey, coolly. Both men drove out on the Shell Road back of cemetery next morning. Pinkey put bullet at twelve paces through Doolittle’s temple. Poor Doo never spoke again. Left three wives and seven children, they say—two of ’em black.”

“I got a note from you this morning,” said Hotchkiss, with badly concealed impatience. “I suppose in reference to our case. You have taken judgment, I believe.” The Colonel, without replying, slowly filled a glass of whiskey and water. For a moment he held it dreamily before him, as if still engaged in gentle reminiscences called up by the act. Then tossing it off, he wiped his lips with a large white handkerchief, and leaning back comfortably in his chair, said, with a wave of his hand, “The interview I requested, Mr. Hotchkiss, concerns a subject—which I may say is—er—er—at present *not* of a public or business nature—although *later* it might become—er—er—both. It is an affair of some—er—delicacy.”

The Colonel paused, and Mr. Hotchkiss regarded him with increased impatience. The Colonel, however, continued, with unchanged deliberation: “It concerns—er—a young lady—a beautiful, high-souled creature, sir, who, apart from her personal loveliness—er—er—I may say is of one of the first families of Missouri, and—er—not—remotely

connected by marriage with one of—er—er—my boyhood's dearest friends." The latter, I grieve to say, was a pure invention of the Colonel's—an oratorical addition to the scanty information he had obtained the previous day. "The young lady," he continued, blandly, "enjoys the further distinction of being the object of such attention from you as would make this interview—really—a confidential matter—er—er—among friends and—er—er—relations in present and future. I need not say that the lady I refer to is Miss Zaidee Juno Hooker, only daughter of Almira Ann Hooker, relict of Jefferson Brown Hooker, formerly of Boone County, Kentucky, and latterly of—er—Pike County, Missouri."

The sallow, ascetic hue of Mr. Hotchkiss's face had passed through a livid and then a greenish shade, and finally settled into a sullen red. "What's all this about?" he demanded, roughly. The least touch of belligerent fire came into Starbottle's eye, but his bland courtesy did not change. "I believe," he said, politely, "I have made myself clear as between—er—gentlemen, though perhaps not as clear as I should to—er—er—jury."

Mr. Hotchkiss was apparently struck with some significance in the lawyer's reply. "I don't know," he said, in a lower and more cautious voice, "what you mean by what you call 'my attentions' to—any one—or how it concerns you. I have not exhausted half a dozen words with—the person you name—have never written her a line—nor even called at her house." He rose with an assumption of ease, pulled down his waistcoat, buttoned his coat, and took up his hat. The Colonel did not move. "I believe I have already indicated my meaning in what I have called 'your attentions,' " said the Colonel, blandly, "and given you my 'concern' for speaking as—er—er—mutual friend. As to *your* statement of your relations with Miss Hooker, I may state that it is fully corroborated by the statement of the young lady herself in this very office yesterday."

"Then what does this impertinent nonsense mean? Why am I summoned here?" said Hotchkiss, furiously.

"Because," said the Colonel, deliberately, "that statement is infamously—yes, damnably to your discredit, sir!"

Mr. Hotchkiss was here seized by one of those important and inconsistent rages which occasionally betray the habitually cautious and

timid man. He caught up the Colonel's stick, which was lying on the table. At the same moment the Colonel, without any apparent effort, grasped it by the handle. To Mr. Hotchkiss's astonishment, the stick separated in two pieces, leaving the handle and about two feet of narrow glittering steel in the Colonel's hand. The man recoiled, dropping the useless fragment. The Colonel picked it up, fitting the shining blade in it, clicked the spring, and then rising, with a face of courtesy yet of unmistakably genuine pain, and with even a slight tremor in his voice, said, gravely:

"Mr. Hotchkiss, I owe you a thousand apologies, sir, that—er—a weapon should be drawn by me—even through your own inadvertence—under the sacred protection of my roof, and upon an unarmed man. I beg your pardon, sir, and I even withdraw the expressions which provoked that inadvertence. Nor does this apology prevent you from holding me responsible—personally responsible—*elsewhere* for an indiscretion committed in behalf of a lady—my—er—client."

"Your client? Do you mean you have taken her case? You, the counsel for the Ditch Company?" said Mr. Hotchkiss, in trembling indignation.

"Having won *your* case, sir," said the Colonel, coolly, "the—er—usages of advocacy do not prevent me from espousing the cause of the weak and unprotected."

"We shall see, sir," said Hotchkiss, grasping the handle of the door and backing into the passage. "There are other lawyers who—"

"Permit me to see you out," interrupted the Colonel, rising politely.

"—will be ready to resist the attacks of blackmail," continued Hotchkiss, retreating along the passage.

"And then you will be able to repeat your remarks to me *in the street*," continued the Colonel, bowing, as he persisted in following his visitor to the door.

But here Mr. Hotchkiss quickly slammed it behind him, and hurried away. The Colonel returned to his office, and sitting down, took a sheet of letter paper bearing the inscription "Starbottle and Stryker, Attorneys and Counsellors," and wrote the following lines:

Hooker *versus* Hotchkiss.

DEAR MADAM,—Having had a visit from the defendant in above, we should be pleased to have an interview with you at 2 P.M. tomorrow. Your obedient servants,

STARBOTTLE AND STRYKER.

This he sealed and despatched by his trusted servant Jim, and then devoted a few moments to reflection. It was the custom of the Colonel to act first, and justify the action by reason afterwards.

He knew that Hotchkiss would at once lay the matter before rival counsel. He knew that they would advise him that Miss Hooker had “no case”—that she would be nonsuited on her own evidence, and he ought not to compromise, but be ready to stand trial. He believed, however, that Hotchkiss feared that exposure, and although his own instincts had been at first against that remedy, he was now instinctively in favor of it. He remembered his own power with a jury; his vanity and his chivalry alike approved of this heroic method; he was bound by the prosaic facts—he had his own theory of the case, which no mere evidence could gainsay. In fact, Mrs. Hooker’s own words that “he was to tell the story in his own way” actually appeared to him an inspiration and a prophecy.

Perhaps there was something else, due possibly to the lady’s wonderful eyes, of which he had thought much. Yet it was not her simplicity that affected him solely; on the contrary, it was her apparent intelligent reading of the character of her recreant lover—and of his own! Of all the Colonel’s previous “light” or “serious” loves none had ever before flattered him in that way. And it was this, combined with the respect which he had held for their professional relations, that precluded his having a more familiar knowledge of his client, through serious questioning, or playful gallantry. I am not sure it was not part of the charm to have a rustic *femme incomprise* as a client.

Nothing could exceed the respect with which he greeted her as she entered his office the next day. He even affected not to notice that she had put on her best clothes, and, he made no doubt, appeared as when she had first attracted the mature yet faithless attentions of Deacon Hotchkiss at church. A white virginal muslin was belted around her slim figure by a blue ribbon, and her Leghorn hat was drawn around

her oval cheek by a bow of the same color. She had a Southern girl's narrow feet, encased in white stockings and kid slippers, which were crossed primly before her as she sat in a chair, supporting her arm by her faithful parasol planted firmly on the floor. A faint odor of southernwood exhaled from her, and, oddly enough, stirred the Colonel with a far-off recollection of a pine-shaded Sunday school on a Georgia hillside and of his first love, aged ten, in a short, starched frock. Possibly it was the same recollection that revived something of the awkwardness he had felt then.

He, however, smiled vaguely and, sitting down, coughed slightly, and placed his fingertips together. "I have had an—er—interview with Mr. Hotchkiss, but—I—er—regret to say there seems to be no prospect of—er—compromise." He paused, and to his surprise her listless "company face" lit up with an adorable smile. "Of course!—ketch him!" she said. "Was he mad when you told him?" She put her knees comfortably together and leaned forward for a reply.

For all that, wild horses could not have torn from the Colonel a word about Hotchkiss's anger. "He expressed his intention of employing counsel—and defending a suit," returned the Colonel, affably basking in her smile. She dragged her chair nearer his desk. "Then you'll fight him tooth and nail?" she said eagerly; "you'll show him up? You'll tell the whole story your own way? You'll give him fits?—and you'll make him pay? Sure?" she went on, breathlessly.

"I—er—will," said the Colonel, almost as breathlessly.

She caught his fat white hand, which was lying on the table, between her own and lifted it to her lips. He felt her soft young fingers even through the lisle-thread gloves that encased them and the warm moisture of her lips upon his skin. He felt himself flushing—but was unable to break the silence or change his position. The next moment she had scuttled back with her chair to her old position.

"I—er—certainly shall do my best," stammered the Colonel, in an attempt to recover his dignity and composure.

"That's enough! You'll *do* it," said the girl, enthusiastically. "Lordy! Just you talk for *me* as ye did for *his* old Ditch Company, and you'll fetch it—every time! Why, when you made that jury sit up the other day—when you got that off about the Merrikan flag waving equally

over the rights of honest citizens banded together in peaceful commercial pursuits, as well as over the fortress of official proflig—”

“Oligarchy,” murmured the Colonel, courteously

“Oligarchy,” repeated the girl, quickly, “my breath was just took away. I said to maw, ‘Ain’t he too sweet for anything!’ I did, honest Injin! And when you rolled it all off at the end—never missing a word—(you didn’t need to mark ’em in a lesson-book, but had ’em all ready on your tongue), and walked out—— Well! I didn’t know you nor the Ditch Company from Adam, but I could have just run over and kissed you there before the whole court!”

She laughed, with her face glowing, although her strange eyes were cast down. Alack! the Colonel’s face was equally flushed, and his own beady eyes were on his desk. To any other woman he would have voiced the banal gallantry that he should now, himself, look forward to that reward, but the words never reached his lips. He laughed, coughed slightly, and when he looked up again she had fallen into the same attitude as on her first visit, with her parasol point on the floor.

“I must ask you to—er—direct your memory—to—er—another point; the breaking off of the—er—er—er—engagement. Did he—er—give any reason for it? Or show any cause?”

“No; he never said anything,” returned the girl.

“Not in his usual way?—er—no reproaches out of the hymn-book?—or the sacred writings?”

“No; he just *quit*.”

“Er—ceased his attentions,” said the Colonel, gravely. “And naturally you—er—were not conscious of any cause for his doing so.” The girl raised her wonderful eyes so suddenly and so penetratingly without reply in any other way that the Colonel could only hurriedly say: “I see! None, of course!”

At which she rose, the Colonel rising also. “We—shall begin proceedings at once. I must, however, caution you to answer no questions nor say anything about this case to any one until you are in court.”

She answered his request with another intelligent look and a nod. He accompanied her to the door. As he took her proffered hand he

raised the lisle-thread fingers to his lips with old-fashioned gallantry. As if that act had condoned for his first omissions and awkwardness, he became his old-fashioned self again, buttoned his coat, pulled out his shirt frill, and strutted back to his desk.

A day or two later it was known throughout the town that Zaidee Hooker had sued Adoniram Hotchkiss for breach of promise, and that the damages were laid at five thousand dollars. As in those bucolic days the Western press was under the secure censorship of a revolver, a cautious tone of criticism prevailed, and any gossip was confined to personal expression, and even then at the risk of the gossipier. Nevertheless, the situation provoked the intensest curiosity. The Colonel was approached—until his statement that he should consider any attempt to overcome his professional secrecy a personal reflection withheld further advances. The community were left to the more ostentatious information of the defendant's counsel, Messrs. Kitcham and Bilser, that the case was "ridiculous" and "rotten," that the plaintiff would be nonsuited, and the fire-eating Starbottle would be taught a lesson that he could not "bully" the law—and there were some dark hints of a conspiracy. It was even hinted that the "case" was the revengeful and preposterous outcome of the refusal of Hotchkiss to pay Starbottle an extravagant fee for his late services to the Ditch Company. It is unnecessary to say that these words were not reported to the Colonel. It was, however, an unfortunate circumstance for the calmer, ethical consideration of the subject that the church sided with Hotchkiss, as this provoked an equal adherence to the plaintiff and Starbottle on the part of the larger body of non-church-goers, who were delighted at a possible exposure of the weakness of religious rectitude. "I've allus had my suspicions o' them early candle-light meetings down at that gospel shop," said one critic, "and I reckon Deacon Hotchkiss didn't rope in the gals to attend jest for psalm-singing." "Then for him to get up and leave the board afore the game's finished and try to sneak out of it," said another. "I suppose that's what they call *religious*."

It was therefore not remarkable that the courthouse three weeks later was crowded with an excited multitude of the curious and sympathizing. The fair plaintiff, with her mother, was early in attendance, and under the Colonel's advice appeared in the same modest garb in which she had first visited his office. This and her downcast modest demeanor were perhaps at first disappointing to the crowd, who had evidently

expected a paragon of loveliness—as the Circe of the grim ascetic defendant, who sat beside his counsel. But presently all eyes were fixed on the Colonel, who certainly made up in *his* appearance any deficiency of his fair client. His portly figure was clothed in a blue dress-coat with brass buttons, a buff waistcoat which permitted his frilled shirt front to become erectile above it, a black satin stock which confined a boyish turned-down collar around his full neck, and immaculate drill trousers, strapped over varnished boots. A murmur ran around the court. “Old ‘Personally Responsible’ had got his war-paint on,” “The Old War-Horse is smelling powder,” were whispered comments. Yet for all that the most irreverent among them recognized vaguely, in his bizarre figure, something of an honored past in their country’s history, and possibly felt the spell of old deeds and old names that had once thrilled their boyish pulses. The new District Judge returned Colonel Starbottle’s profoundly punctilious bow. The Colonel was followed by his Negro servant, carrying a parcel of hymn-books and Bibles, who, with a courtesy evidently imitated from his master, placed one before the opposite counsel. This, after a first curious glance, the lawyer somewhat superciliously tossed aside. But when Jim, proceeding to the jury-box, placed with equal politeness the remaining copies before the jury, the opposite counsel sprang to his feet.

“I want to direct the attention of the Court to this unprecedented tampering with the jury, by this gratuitous exhibition of matter impertinent and irrelevant to the issue.”

The Judge cast an inquiring look at Colonel Starbottle.

“May it please the Court,” returned Colonel Starbottle with dignity, ignoring the counsel, “the defendant’s counsel will observe that he is already furnished with the matter—which I regret to say he has treated—in the presence of the Court—and of his client, a deacon of the church—with—er—great superciliousness. When I state to Your Honor that the books in question are hymn-books and copies of the *Holy Scriptures*, and that they are for the instruction of the jury, to whom I shall have to refer them in the course of my opening, I believe I am within my rights.”

“The act is certainly unprecedented,” said the Judge, dryly, “but unless the counsel for the plaintiff expects the jury to *sing* from these hymn-books, their introduction is not improper, and I cannot admit the

objection. As defendant's counsel are furnished with copies also, they cannot plead 'surprise,' as in the introduction of new matter, and as plaintiff's counsel relies evidently upon the jury's attention to his opening, he would not be the first person to distract it." After a pause he added, addressing the Colonel, who remained standing, "The Court is with you, sir; proceed."

But the Colonel remained motionless and statuesque, with folded arms.

"I have overruled the objection," repeated the Judge; "you may go on."

"I am waiting, Your Honor, for the—er—withdrawal by the defendant's counsel of the word 'tampering,' as refers to myself, and of 'impertinent,' as refers to the sacred volumes."

"The request is a proper one, and I have no doubt will be acceded to," returned the Judge, quietly. The defendant's counsel rose and mumbled a few words of apology, and the incident closed. There was, however, a general feeling that the Colonel had in some way "scored," and if his object had been to excite the greatest curiosity about the books, he had made his point.

But impassive of his victory, he inflated his chest, with his right hand in the breast of his buttoned coat, and began. His usual high color had paled slightly, but the small pupils of his prominent eyes glittered like steel. The young girl leaned forward in her chair with an attention so breathless, a sympathy so quick, and an admiration so artless and unconscious that in an instant she divided with the speaker the attention of the whole assemblage. It was very hot; the court was crowded to suffocation; even the open windows revealed a crowd of faces outside the building, eagerly following the Colonel's words.

He would remind the jury that only a few weeks ago he stood there as the advocate of a powerful company, then represented by the present defendant. He spoke then as the champion of strict justice against legal oppression; no less should he today champion the cause of the unprotected and the comparatively defenseless—save for that paramount power which surrounds beauty and innocence—even though the plaintiff of yesterday was the defendant of today. As he approached the court a moment ago he had raised his eyes and beheld the starry flag flying

from its dome—and he knew that glorious banner was a symbol of the perfect equality, under the Constitution, of the rich and the poor, the strong and the weak—an equality which made the simple citizen taken from the plough in the veld, the pick in the gulch, or from behind the counter in the mining town, who served on that jury, the equal arbiters of justice with that highest legal luminary whom they were proud to welcome on the bench today. The Colonel paused, with a stately bow to the impassive Judge. It was this, he continued, which lifted his heart as he approached the building. And yet—he had entered it with an uncertain—he might almost say—a timid step. And why? He knew, gentlemen, he was about to confront a profound—aye! a sacred responsibility! Those hymn-books and holy writings handed to the jury were *not*, as his Honor surmised, for the purpose of enabling the jury to indulge in—er—preliminary choral exercise! He might, indeed, say “alas not!” They were the damning, incontrovertible proofs of the perfidy of the defendant. And they would prove as terrible a warning to him as the fatal characters upon Belshazzar’s wall. There was a strong sensation. Hotchkiss turned a sallow green. His lawyers assumed a careless smile.

It was his duty to tell them that this was not one of those ordinary “breach-of-promise” cases which were too often the occasion of ruthless mirth and indecent levity in the courtroom. The jury would find nothing of that here. There were no love-letters with the epithets of endearment, nor those mystic crosses and ciphers which, he had been credibly informed, chastely hid the exchange of those mutual caresses known as “kisses.” There was no cruel tearing of the veil from those sacred privacies of the human affection—there was no forensic shouting out of those fond confidences meant only for *one*. But there was, he was shocked to say, a new sacrilegious intrusion. The weak pipings of Cupid were mingled with the chorus of the saints—the sanctity of the temple known as the “meeting-house” was desecrated by proceedings more in keeping with the shrine of Venus—and the inspired writings themselves were used as the medium of amatory and wanton flirtation by the defendant in his sacred capacity as Deacon.

The Colonel artistically paused after this thunderous denunciation. The jury turned eagerly to the leaves of the hymn-books, but the larger gaze of the audience remained fixed upon the speaker and the girl,

who sat in rapt admiration of his periods. After the hush, the Colonel continued in a lower and sadder voice: "There are, perhaps, few of us here, gentlemen—with the exception of the defendant—who can arrogate to themselves the title of regular church-goers, or to whom these humbler functions of the prayer-meeting, the Sunday-school, and the Bible class are habitually familiar. Yet"—more solemnly—"down in your hearts is the deep conviction of our short-comings and failings, and a laudable desire that others at least should profit by the teachings we neglect. Perhaps," he continued, closing his eyes dreamily, "there is not a man here who does not recall the happy days of his boyhood, the rustic village spire, the lesson shared with some artless village maiden, with whom he later sauntered, hand in hand, through the woods, as the simple rhyme rose upon their lips,

Always make it a point to have it a rule
Never to be late at the Sabbath-school.

He would recall the strawberry feasts, the welcome annual picnic, redolent with hunks of gingerbread and sarsaparilla. How would they feel to know that these sacred recollections were now forever profaned in their memory by the knowledge that the defendant was capable of using such occasions to make love to the larger girls and teachers, whilst his artless companions were innocently—the Court will pardon me for introducing what I am credibly informed is the local expression 'doing gooseberry'?" The tremulous flicker of a smile passed over the faces of the listening crowd, and the Colonel slightly winced. But he recovered himself instantly, and continued:

"My client, the only daughter of a widowed mother—who has for years stemmed the varying tides of adversity—in the western precincts of this town—stands before you today invested only in her own innocence. She wears no—er—rich gifts of her faithless admirer—is panoplied in no jewels, rings, nor mementos of affection such as lovers delight to hang upon the shrine of their affections; hers is not the glory with which Solomon decorated the Queen of Sheba, though the defendant, as I shall show later, clothed her in the less expensive flowers of the king's poetry. No! gentlemen! The defendant exhibited in this affair a certain frugality of—er—pecuniary investment, which I am willing to admit may be commendable in his class. His only gift

was characteristic alike of his methods and his economy. There is, I understand, a certain not unimportant feature of religious exercise known as 'taking a collection.' The defendant, on this occasion, by the mute presentation of a tin plate covered with baize, solicited the pecuniary contributions of the faithful. On approaching the plaintiff, however, he himself slipped a love-token upon the plate and pushed it towards her. That love-token was a lozenge—a small disk, I have reason to believe, concocted of peppermint and sugar, bearing upon its reverse surface the simple words, 'I love you!' I have since ascertained that these disks may be bought for five cents a dozen—or at considerably less than one half-cent for the single lozenge. Yes, gentlemen, the words 'I love you!'—the oldest legend of all; the refrain, 'when the morning stars sang together'—were presented to the plaintiff by a medium so insignificant that there is, happily, no coin in the republic low enough to represent its value.

"I shall prove to you, gentlemen of the jury," said the Colonel, solemnly, drawing a *Bible* from his coat-tail pocket, "that the defendant, for the last twelve months, conducted an amatory correspondence with the plaintiff by means of underlined words of sacred writ and church psalmody, such as 'beloved,' 'precious,' and 'dearest,' occasionally appropriating whole passages which seemed apposite to his tender passion. I shall call your attention to one of them. The defendant, while professing to be a total abstainer—a man who, in my own knowledge, has refused spirituous refreshment as an inordinate weakness of the flesh, with shameless hypocrisy underscores with his pencil the following passage and presents it to the plaintiff. The gentlemen of the jury will find it in the *Song of Solomon*, page 548, chapter II, verse 5." After a pause, in which the rapid rustling of leaves was heard in the jury-box, Colonel Starbottle declaimed in a pleading, stentorian voice, "'Stay me with—er—*flagons*, comfort me with—er—apples—for I am—er—sick of love.' Yes, gentlemen!—yes, you may well turn from those accusing pages and look at the double-faced defendant. He desires—to—er—be—'stayed with flagons'! I am not aware, at present, what kind of liquor is habitually dispensed at these meetings, and for which the defendant so urgently clamored; but it will be my duty before this trial is over to discover it, if I have to summon every barkeeper in this district. For the moment, I will simply call your attention to the *quantity*. It is not a single drink that the defendant asks for—not a glass of light and

generous wine, to be shared with his inamorata—but a number of flagons or vessels, each possibly holding a pint measure—*for himself!*”

The smile of the audience had become a laugh. The Judge looked up warningly, when his eye caught the fact that the Colonel had again winced at this mirth. He regarded him seriously. Mr. Hotchkiss's counsel had joined in the laugh affectedly, but Hotchkiss himself was ashy pale. There was also a commotion in the jury-box, a hurried turning over of leaves, and an excited discussion.

“The gentlemen of the jury,” said the Judge, with official gravity, “will please keep order and attend only to the speeches of counsel. Any discussion *here* is irregular and premature—and must be reserved for the jury-room—after they have retired.”

The foreman of the jury struggled to his feet. He was a powerful man, with a good-humored face, and, in spite of his unfelicitous nickname of “The Bone-Breaker,” had a kindly, simple, but somewhat emotional nature. Nevertheless, it appeared as if he were laboring under some powerful indignation.

“Can we ask a question, Judge?” he said, respectfully, although his voice had the unmistakable Western-American ring in it, as of one who was unconscious that he could be addressing any but his peers.

“Yes,” said the Judge, good-humoredly.

“We’re finding in this yere piece, out of which the Kernel hes just bin a-quotin’, some language that me and my pardners allow hadn’t orter to be read out afore a young lady in court—and we want to know of you—ez a fair-minded and impartial man—ef this is the reg’lar kind o’ book given to gals and babies down at the meetin’house.”

“The jury will please follow the counsel’s speech, without comment,” said the Judge, briefly, fully aware that the defendant’s counsel would spring to his feet, as he did promptly. “The Court will allow us to explain to the gentlemen that the language they seem to object to has been accepted by the best theologians for the last thousand years as being purely mystic. As I will explain later, those are merely symbols of the Church—”

“Of wot?” interrupted the foreman, in deep scorn.

“Of the Church!”

"We ain't askin' any questions *o' you*—and we ain't takin' any answers," said the foreman, sitting down promptly.

"I must insist," said the Judge sternly, "that the plaintiff's counsel be allowed to continue his opening without interruption. You" (to defendant's counsel) "will have your opportunity to reply later."

The counsel sank down in his seat with the bitter conviction that the jury was manifestly against him, and the case as good as lost. But his face was scarcely as disturbed as his client's, who, in great agitation, had begun to argue with him wildly, and was apparently pressing some point against the lawyer's vehement opposal. The Colonel's murky eyes brightened as he still stood erect with his hand thrust in his breast.

"It will be put to you, gentlemen, when the counsel on the other side refrains from mere interruption and confines himself to reply, that my unfortunate client has no action—no remedy at law—because there were no spoken words of endearment. But, gentlemen, it will depend upon *you* to say what are and what are not articulate expressions of love. We all know that among the lower animals, with whom you may possibly be called upon to classify the defendant, there are certain signals more or less harmonious, as the case may be. The ass brays, the horse neighs, the sheep bleats—the feathered denizens of the grove call to their mates in more musical roundelays. These are recognized facts, gentlemen, which you yourselves, as dwellers among nature in this beautiful land, are all cognizant of. They are facts that no one would deny—and we should have a poor opinion of the ass who, at—er—such a supreme moment, would attempt to suggest that his call was unthinking and without significance. But, gentlemen, I shall prove to you that such was the foolish, self-convicting custom of the defendant. With the greatest reluctance, and the—er—greatest pain, I succeeded in wresting from the maidenly modesty of my fair client the innocent confession that the defendant had induced her to correspond with him in these methods. Picture to yourself, gentlemen, the lonely moonlight road beside the widow's humble cottage. It is a beautiful night, sanctified to the affections, and the innocent girl is leaning from her casement. Presently there appears upon the road a slinking, stealthy figure—the defendant, on his way to church. True to the instruction she had received from him, her lips part in the musical utterance" (the Colonel lowered his voice in a faint falsetto, presumably in fond imitation of his fair client),

“‘Kerree!’ Instantly the night became resonant with the impassioned reply” (the Colonel here lifted his voice in stentorian tones), “‘Kerrow.’ Again, as he passes, rises the soft ‘Kerree’; again, as his form is lost in the distance, comes back the deep ‘Kerrow.’ ”

A burst of laughter, long, loud, and irrepressible, struck the whole courtroom, and before the Judge could lift his half-composed face and take his handkerchief from his mouth, a faint “Kerree” from some unrecognized obscurity of the courtroom was followed by a loud “Kerrow” from some opposite locality. “The sheriff will clear the court,” said the Judge, sternly; but alas, as the embarrassed and choking officials rushed hither and thither, a soft “Kerree” from the spectators at the window, *outside* the courthouse, was answered by a loud chorus of “Kerrows” from the opposite windows, filled with onlookers. Again the laughter arose everywhere—even the fair plaintiff herself sat convulsed behind her handkerchief.

The figure of Colonel Starbottle alone remained erect—white and rigid. And then the Judge, looking up, saw what no one else in the court had seen—that the Colonel was sincere and in earnest; that what he had conceived to be the pleader’s most perfect acting, and most elaborate irony, were the deep, serious, mirthless *convictions* of a man without the least sense of humor. There was a touch of this respect in the Judge’s voice as he said to him, gently, “You may proceed, Colonel Starbottle.”

“I thank Your Honor,” said the Colonel, slowly, “for recognizing and doing all in your power to prevent an interruption that, during my thirty years’ experience at the bar, I have never yet been subjected to without the privilege of holding the instigators thereof responsible—*personally* responsible. It is possibly my fault that I have failed, oratorically, to convey to the gentlemen of the jury the full force and significance of the defendant’s signals. I am aware that my voice is singularly deficient in producing either the dulcet tones of my fair client or the impassioned vehemence of the defendant’s response. I will,” continued the Colonel, with a fatigued but blind fatuity that ignored the hurriedly knit brows and warning eyes of the Judge, “try again. The note uttered by my client” (lowering his voice to the faintest of falsettos) “was ‘Kerree’;

the response was 'Kerrow' "—and the Colonel's voice fairly shook the dome above him.

Another uproar of laughter followed this apparently audacious repetition, but was interrupted by an unlooked-for incident. The defendant rose abruptly, and tearing himself away from the withholding hand and pleading protestations of his counsel, absolutely fled from the courtroom, his appearance outside being recognized by a prolonged "Kerrow" from the bystanders, which again and again followed him in the distance. In the momentary silence which followed, the Colonel's voice was heard saying, "We rest here, Your Honor," and he sat down. No less white, but more agitated, was the face of the defendant's counsel, who instantly rose.

"For some unexplained reason, Your Honor, my client desires to suspend further proceedings, with a view to effect a peaceable compromise with the plaintiff. As he is a man of wealth and position, he is able and willing to pay liberally for that privilege. While I, as his counsel, am still convinced of his legal irresponsibility, as he has chosen, however, to publicly abandon his rights here, I can only ask Your Honor's permission to suspend further proceedings until I can confer with Colonel Starbottle."

"As far as I can follow the pleadings," said the Judge, gravely, "the case seems to be hardly one for litigation, and I approve of the defendant's course, while I strongly urge the plaintiff to accept it."

Colonel Starbottle bent over his fair client. Presently he rose, unchanged in look or demeanor. "I yield, Your Honor, to the wishes of my client, and—er—lady. We accept."

Before the court adjourned that day it was known throughout the town that Adoniram K. Hotchkiss had compromised the suit for four thousand dollars and costs.

Colonel Starbottle had so far recovered his equanimity as to strut jauntily towards his office, where he was to meet his fair client. He was surprised, however, to find her already there, and in company with a somewhat sheepish-looking young man—a stranger. If the Colonel had any disappointment in meeting a third party to the interview, his old-fashioned courtesy did not permit him to show it. He bowed graciously, and politely motioned them each to a seat.

"I reckoned I'd bring Hiram round with me," said the young lady, lifting her searching eyes, after a pause, to the Colonel's, "though he *was* awful shy, and allowed that you didn't know him from Adam—or even suspected his existence. But I said, 'That's just where you slip up, Hiram; a pow'ful man like the Colonel knows everything—and I've seen it in his eye.' Lordy!" she continued, with a laugh, leaning forward over her parasol, as her eyes again sought the Colonel's, "don't you remember when you asked me if I loved that old Hotchkiss, and I told you 'That's tellin',' and you looked at me, Lordy! I knew *then* you suspected there was a Hiram *somewhere*—as good as if I'd told you. Now, you, jest get up, Hiram, and give the Colonel a good hand shake. For if it wasn't for *him* and *his* searchin' ways, and *his* awful power of language, I wouldn't hev got that four thousand dollars out o' that flirty fool Hotchkiss—enough to buy a farm, so as you and me could get married! That's what you owe to *him*. Don't stand there like a stuck fool starin' at him. He won't eat you—though he's killed many a better man. Come, have *I* got to do *all* the kissin'!"

It is of record that the Colonel bowed so courteously and so profoundly that he managed not merely to evade the proffered hand of the shy Hiram, but to only lightly touch the franker and more impulsive fingertips of the gentle Zaidee. "I—er—offer my sincerest congratulations—though I think you—er—overestimate—my—er—powers of penetration. Unfortunately, a pressing engagement, which may oblige me also to leave town tonight, forbids my saying more. I have—er—left the—er—business settlement of this—er—case in the hands of the lawyers who do my officework, and who will show you every attention. And now let me wish you a very good afternoon."

Nevertheless, the Colonel returned to his private room, and it was nearly twilight when the faithful Jim entered, to find him sitting meditatively before his desk. "'Fo' God! Kernel—I hope dey ain't nuffin de matter, but you's lookin' mighty solemn! I ain't seen you look dat way, Kernel, since de day pooh Marse Stryker was fetched home shot froo de head."

"Hand me down the whiskey, Jim," said the Colonel, rising slowly.

The Negro flew to the closet joyfully, and brought out the bottle. The Colonel poured out a glass of the spirit and drank it with his old deliberation.

“You’re quite right, Jim,” he said, putting down his glass, “but I’m—er—getting old—and—somehow—I am missing poor Stryker damnably!”

THOMAS HARDY

THE THREE STRANGERS

This unusual story by Britain's renowned Thomas Hardy (1840–1928) provides a curious illustration of the time-honored Anglo-American institution of compulsory citizen assistance in search for and capture of a felon which is technically known as "posse comitatus."

AMONG the few features of agricultural England which retain an appearance but little modified by the lapse of centuries may be reckoned the high, grassy and furzy downs, coombs, or ewe-leases, as they are indifferently called, that fill a large area of certain counties in the south and southwest. If any mark of human occupation is met with hereon, it usually takes the form of the solitary cottage of some shepherd.

Fifty years ago such a lonely cottage stood on such a down, and may possibly be standing there now. In spite of its loneliness, however, the spot, by actual measurement, was not more than five miles from a county-town. Yet that affected it little. Five miles of irregular upland, during the long inimical seasons, with their sleets, snows, rains, and mists, afford withdrawing space enough to isolate a Timon or a Nebuchadnezzar; much less, in fair weather, to please that less repellent tribe, the poets, philosophers, artists, and others who "conceive and meditate of pleasant things."

Some old earthen camp or barrow, some clump of trees, at least some starved fragment of ancient hedge is usually taken advantage of in the erection of these forlorn dwellings. But, in the present case, such a kind of shelter had been disregarded. Higher Crowstairs, as the house was called, stood quite detached and undefended. The only reason for its precise situation seemed to be the crossing of two footpaths at right angles hard by, which may have crossed there and thus for a good five hundred years. Hence the house was exposed to the elements on all sides. But, though the wind up here blew unmistakably when it did blow, and the rain hit hard whenever it fell, the various weathers of the winter season were not quite so formidable on the

coomb as they were imagined to be by dwellers on low ground. The raw rimes were not so pernicious as in the hollows, and the frosts were scarcely so severe. When the shepherd and his family who tenanted the house were pitied for their sufferings from the exposure, they said that upon the whole they were less inconvenienced by "wuzzes and flames" (hoarses and phlegms) than when they had lived by the stream of a snug neighbouring valley.

The night of March 28, 182—, was precisely one of the nights that were wont to call forth these expressions of commiseration. The level rainstorm smote walls, slopes, and hedges like the clothyard shafts of Senlac and Crecy. Such sheep and outdoor animals as had no shelter stood with their buttocks to the winds; while the tails of little birds trying to roost on some scraggy thorn were blown inside-out like umbrellas. The gable-end of the cottage was stained with wet, and the eavesdroppings flapped against the wall. Yet never was commiseration for the shepherd more misplaced. For that cheerful rustic was entertaining a large party in glorification of the christening of his second girl.

The guests had arrived before the rain began to fall, and they were all now assembled in the chief or living room of the dwelling. A glance into the apartment at eight o'clock on this eventful evening would have resulted in the opinion that it was as cosy and comfortable a nook as could be wished for in boisterous weather. The calling of its inhabitant was proclaimed by a number of highly polished sheep crooks without stems that were hung ornamentally over the fireplace, the curl of each shining crook varying from the antiquated type engraved in the patriarchal pictures of old family Bibles to the most approved fashion of the last local sheep-fair. The room was lighted by half a dozen candles having wicks only a trifle smaller than the grease which enveloped them, in candlesticks that were never used but at high-days, holy-days, and family feasts. The lights were scattered about the room, two of them standing on the chimney piece. This position of candles was in itself significant. Candles on the chimney piece always meant a party.

On the hearth, in front of a back-brand to give substance, blazed a fire of thorns, that crackled "like the laughter of the fool."

Nineteen persons were gathered here. Of these, five women, wearing gowns of various bright hues, sat in chairs along the wall; girls shy and not shy filled the window-bench; four men, including Charley Jake the

hedge-carpenter, Elijah New the parish-clerk, and John Pitcher, a neighboring dairyman, the shepherd's father-in-law, lolled in the settle; a young man and maid, who were blushing over tentative *pour-parlers* on a life-companionship, sat beneath the corner-cupboard; and an elderly engaged man of fifty or upward moved restlessly about from spots where his betrothed was not to the spot where she was. Enjoyment was pretty general, and so much the more prevailed in being unhampered by conventional restrictions. Absolute confidence in each other's good opinion begat perfect ease, while the finishing stroke of manner, amounting to a truly princely serenity, was lent to the majority by the absence of any expression or trait denoting that they wished to get on in the world, enlarge their minds, or do any eclipsing thing whatever—which nowadays so generally nips the bloom and *bonhomie* of all except the two extremes of the social scale.

Shepherd Fennel had married well, his wife being a dairyman's daughter from a vale at a distance, who brought fifty guineas in her pocket—and kept them there, till they should be required for ministering to the needs of a coming family. This frugal woman had been somewhat exercised as to the character that should be given to the gathering. A sit-still party had its advantages; but an undisturbed position of ease in chairs and settles was apt to lead on the men to such an unconscionable deal of toping that they would sometimes fairly drink the house dry. A dancing-party was the alternative; but this, while avoiding the foregoing objection on the score of good drink, had a counterbalancing disadvantage in the matter of good victuals, the ravenous appetites engendered by the exercise causing immense havoc in the buttery. Shepherdess Fennel fell back upon the intermediate plan of mingling short dances with short periods of talk and singing, so as to hinder any ungovernable rage in either. But this scheme was entirely confined to her own gentle mind: the shepherd himself was in the mood to exhibit the most reckless phases of hospitality.

The fiddler was a boy of those parts, about twelve years of age, who had a wonderful dexterity in jigs and reels, though his fingers were so small and short as to necessitate a constant shifting for the high notes, from which he scrambled back to the first position with sounds not of unmixed purity of tone. At seven the shrill tweedle-dee of this youngster had begun, accompanied by a booming ground-bass from Elijah

New, the parish-clerk, who had thoughtfully brought with him his favorite musical instrument, the serpent. Dancing was instantaneous, Mrs. Fennel privately enjoining the players on no account to let the dance exceed the length of a quarter of an hour.

But Elijah and the boy, in the excitement of their position, quite forgot the injunction. Moreover, Oliver Giles, a man of seventeen, one of the dancers, who was enamored of his partner, a fair girl of thirty-three rolling years, had recklessly handed a new crown-piece to the musicians, as a bribe to keep going as long as they had muscle and wind. Mrs. Fennel, seeing the steam begin to generate on the countenances of her guests, crossed over and touched the fiddler's elbow and put her hand on the serpent's mouth. But they took no notice, and fearing she might lose her character of genial hostess if she were to interfere too markedly, she retired and sat down helpless. And so the dance whizzed on with cumulative fury, the performers moving in their planet-like courses, direct and retrograde, from apogee to perigee, till the hand of the well-kicked clock at the bottom of the room had traveled over the circumference of an hour.

While these cheerful events were in course of enactment within Fennel's pastoral dwelling, an incident having considerable bearing on the party had occurred in the gloomy night without. Mrs. Fennel's concern about the growing fierceness of the dance corresponded in point of time with the ascent of a human figure to the solitary hill of Higher Crowstairs from the direction of the distant town. This personage strode on through the rain without a pause, following the little-worn path which, further on in its course, skirted the shepherd's cottage.

It was nearly the time of full moon, and on this account, though the sky was lined with a uniform sheet of dripping cloud, ordinary objects out of doors were readily visible. The sad, wan light revealed the lonely pedestrian to be a man of supple frame; his gait suggested that he had somewhat passed the period of perfect and instinctive agility, though not so far as to be otherwise than rapid of motion when occasion required. At a rough guess, he might have been about forty years of age. He appeared tall, but a recruiting sergeant, or other person accustomed to the judging of men's heights by the eye, would have discerned that this was chiefly owing to his gauntness, and that he was not more than five-feet-eight or nine.

Notwithstanding the regularity of his tread, there was caution in it, as in that of one who mentally feels his way; and despite the fact that it was not a black coat nor a dark garment of any sort that he wore, there was something about him which suggested that he naturally belonged to the black-coated tribes of men. His clothes were of fustian, and his boots hobnailed, yet in his progress he showed not the mud-accustomed bearing of hobnailed and fustianed peasantry.

By the time that he had arrived abreast of the shepherd's premises the rain came down, or rather came along, with yet more determined violence. The outskirts of the little settlement partially broke the force of wind and rain, and this induced him to stand still. The most salient of the shepherd's domestic erections was an empty sty at the forward corner of his hedgeless garden, for in these latitudes the principle of masking the homelier features of your establishment by a conventional frontage was unknown. The traveler's eye was attracted to this small building by the pallid shine of the wet slates that covered it. He turned aside, and, finding it empty, stood under the pent-roof for shelter.

While he stood, the boom of the serpent within the adjacent house, and the lesser strains of the fiddler, reached the spot as an accompaniment to the surging hiss of the flying rain on the sod, its louder beating on the cabbage-leaves of the garden, on the eight or ten beehives just discernible by the path, and its dripping from the eaves into a row of buckets and pans that had been placed under the walls of the cottage. For at Higher Crowstairs, as at all such elevated domiciles, the grand difficulty of housekeeping was an insufficiency of water; and a casual rainfall was utilized by turning out, as catchers, every utensil that the house contained. Some queer stories might be told of the contrivances for economy in suds and dishwaters that are absolutely necessitated in upland habitations during the droughts of summer. But at this season there were no such exigencies; a mere acceptance of what the skies bestowed was sufficient for an abundant store.

At last the notes of the serpent ceased and the house was silent. This cessation of activity aroused the solitary pedestrian from the reverie into which he had elapsed, and, emerging from the shed, with an apparently new intention, he walked up the path to the house-door. Arrived here, his first act was to kneel down on a large stone beside the row of vessels, and to drink a copious draught from one of them.

Having quenched his thirst, he rose and lifted his hand to knock, but paused with his eye upon the panel. Since the dark surface of the wood revealed absolutely nothing, it was evident that he must be mentally looking through the door, as if he wished to measure thereby all the possibilities that a house of this sort might include, and how they might bear upon the question of his entry.

In his indecision he turned and surveyed the scene around. Not a soul was anywhere visible. The garden path stretched downward from his feet, gleaming like the track of a snail; the roof of the little well (mostly dry), the well-cover, the top rail of the garden-gate, were varnished with the same dull liquid glaze; while, far away in the vale, a faint whiteness of more than usual extent showed that the rivers were high in the meads. Beyond all this winked a few bleared lamplights through the beating drops—lights that denoted the situation of the county-town from which he had appeared to come. The absence of all notes of life in that direction seemed to clinch his intentions, and he knocked at the door.

Within, a desultory chat had taken the place of movement and musical sound. The hedge-carpenter was suggesting a song to the company, which nobody just then was inclined to undertake, so that the knock afforded a not unwelcome diversion.

“Walk in!” said the shepherd, promptly.

The latch clicked upward, and out of the night our pedestrian appeared upon the door-mat. The shepherd arose, snuffed two of the nearest candles, and turned to look at him.

Their light disclosed that the stranger was dark in complexion and not unprepossessing as to feature. His hat, which for a moment he did not remove, hung low over his eyes, without concealing that they were large, open, and determined, moving with a flash rather than a glance round the room. He seemed pleased with his survey, and, baring his shaggy head, said, in a rich, deep voice: “The rain is so heavy, friends, that I ask leave to come in and rest awhile.”

“To be sure, Stranger,” said the shepherd. “And faith, you’ve been lucky in choosing your time, for we are having a bit of a fling for a glad cause—though, to be sure, a man could hardly wish that glad cause to happen more than once a year.”

“Nor less,” spoke up a woman. “For ’tis best to get your family over and done with, as soon as you can, so as to be all the earlier out of the fag o’t.”

“And what may be this glad cause?” asked the stranger.

“A birth and christening,” said the shepherd.

The stranger hoped his host might not be made unhappy either by too many or too few of such episodes and, being invited by a gesture to a pull at the mug, he readily acquiesced. His manner, which, before entering, had been so dubious, was now altogether that of a careless and candid man.

“Late to be traipsing athwart this coomb—hey?” said the engaged man of fifty.

“Late it is, Master, as you say.—I’ll take a seat in the chimney corner, if you have nothing to urge against it, Ma’am; for I am a little moist on the side that was next the rain.”

Mrs. Shepherd Fennel assented, and made room for the self-invited comer, who, having got completely inside the chimney corner, stretched out his legs and arms with the expansiveness of a person quite at home.

“Yes, I am rather cracked in the vamp,” he said freely, seeing that the eyes of the shepherd’s wife fell upon his boots, “and I am not well fitted either. I have had some rough times lately, and have been forced to pick up what I can get in the way of wearing, but I must find a suit better fit for working-days when I reach home.”

“One of hereabouts?” she inquired.

“Not quite that—further up the country.”

“I thought so. And so be I; and by your tongue you come from my neighborhood.”

“But you would hardly have heard of me,” he said quickly. “My time would be long before yours, Ma’am, you see.”

This testimony to the youthfulness of his hostess had the effect of stopping her cross-examination.

“There is only one thing more wanted to make me happy,” continued the newcomer, “and that is a little baccy, which I am sorry to say I am out of.”

"I'll fill your pipe," said the shepherd.

"I must ask you to lend me a pipe likewise."

"A smoker, and no pipe about 'ee?"

"I have dropped it somewhere on the road."

The shepherd filled and handed him a new clay pipe, saying, as he did so, "Hand me your baccy-box—I'll fill that too, now I am about it."

The man went through the movement of searching his pockets.

"Lost that too?" said his entertainer, with some surprise.

"I am afraid so," said the man with some confusion. "Give it to me in a screw of paper." Lighting his pipe at the candle with a suction that drew the whole flame into the bowl, he resettled himself in the corner and bent his looks upon the faint steam from his damp legs, as if he wished to say no more.

Meanwhile the general body of guests had been taking little notice of this visitor by reason of an absorbing discussion in which they were engaged with the band about a tune for the next dance. The matter being settled, they were about to stand up when an interruption came in the shape of another knock at the door.

At sound of the same the man in the chimney corner took up the poker and began stirring the brands as if doing it thoroughly were the one aim of his existence; and a second time the shepherd said, "Walk in!" In a moment another man stood upon the straw-woven door-mat. He too was a stranger.

This individual was one of a type radically different from the first. There was more of the commonplace in his manner, and a certain jovial cosmopolitanism sat upon his features. He was several years older than the first arrival, his hair being slightly frosted, his eyebrows bristly, and his whiskers cut back from his cheeks. His face was rather full and flabby, and yet it was not altogether a face without power. A few grog-blossoms marked the neighborhood of his nose. He flung back his long drab greatcoat, revealing that beneath it he wore a suit of cinder-gray shade throughout, large heavy seals, of some metal or other that would take a polish, dangling from his fob as his only personal ornament. Shaking the water drops from his low-crowned glazed hat,

he said, "I must ask for a few minutes' shelter, comrades, or I shall be wetted to my skin before I get to Casterbridge."

"Make yourself at home, Master," said the shepherd, perhaps a trifle less heartily than on the first occasion. Not that Fennel had the least tinge of niggardliness in his composition; but the room was far from large, spare chairs were not numerous, and damp companions were not altogether desirable at close quarters for the women and girls in their bright-colored gowns.

However, the second comer, after taking off his greatcoat, and hanging his hat on a nail in one of the ceiling-beams as if he had been specially invited to put it there, advanced and sat down at the table. This had been pushed so closely into the chimney corner, to give all available room to the dancers, that its inner edge grazed the elbow of the man who had ensconced himself by the fire; and thus the two strangers were brought into close companionship. They nodded to each other by way of breaking the ice of unacquaintance, and the first stranger handed his neighbor the family mug—a huge vessel of brown ware, having its upper edge worn away like a threshold by the rub of whole generations of thirsty lips that had gone the way of all flesh, and bearing the following inscription burnt upon its rotund side in yellow letters:

THERE IS NO FUN
UNTIL I CUM.

The other man, nothing loth, raised the mug to his lips, and drank on, and on, and on—till a curious blueness overspread the countenance of the shepherd's wife, who had regarded with no little surprise the first stranger's free offer to the second of what did not belong to him to dispense.

"I knew it!" said the toper to the shepherd with much satisfaction. "When I walked up your garden before coming in, and saw the hives all of a row, I said to myself, 'Where there's bees there's honey, and where there's honey there's mead.' But mead of such a truly comfortable sort as this I really didn't expect to meet in my older days." He took yet another pull at the mug, till it assumed an ominous elevation.

"Glad you enjoy it!" said the shepherd warmly.

"It is goodish mead," assented Mrs. Fennel, with an absence of enthusiasm which seemed to say that it was possible to buy praise for one's cellar at too heavy a price. "It is trouble enough to make—and really I hardly think we shall make any more. For honey sells well, and we ourselves can make shift with a drop o' small mead and metheglin for common use from the comb-washings."

"Oh, but you'll never have the heart!" reproachfully cried the stranger in cinder-gray, after taking up the mug a third time and setting it down empty. "I love mead, when 'tis old like this, as I love to go to church o' Sundays, or to relieve the needy any day of the week."

"Ha, ha, ha!" said the man in the chimney corner, who, in spite of the taciturnity induced by the pipe of tobacco, could not or would not refrain from this slight testimony to his comrade's humor.

Now the old mead of those days, brewed of the purest first-year or maiden honey, four pounds to the gallon—with its due complement of white of eggs, cinnamon, ginger, cloves, mace, rosemary, yeast, and processes of working, bottling, and cellaring—tasted remarkably strong; but it did not taste so strong as it actually was. Hence, presently, the stranger in cinder-gray at the table, moved by its creeping influence, unbuttoned his waistcoat, threw himself back in his chair, spread his legs, and made his presence felt in various ways.

"Well, well, as I say," he resumed, "I am going to Casterbridge, and to Casterbridge I must go. I should have been almost there by this time; but the rain drove me into your dwelling, and I'm not sorry for it."

"You don't live in Casterbridge?" said the shepherd.

"Not as yet; though I shortly mean to move there."

"Going to set up in trade, perhaps?"

"No, no," said the shepherd's wife. "It is easy to see that the gentleman is rich, and don't want to work at anything."

The cinder-gray stranger paused, as if to consider whether he would accept that definition of himself. He presently rejected it by answering, "Rich is not quite the word for me, Dame. I do work, and I must work."

And even if I only get to Casterbridge by midnight I must begin work there at eight tomorrow morning. Yes, het or wet, blow or snow, famine or sword, my day's work tomorrow must be done."

"Poor man! Then, in spite o' seeming, you be worse off than we," replied the shepherd's wife.

"'Tis the nature of my trade, men and maidens. 'Tis the nature of my trade more than my poverty. . . . But really and truly I must up and off, or I shan't get a lodging in the town." However, the speaker did not move, and directly added, "There's time for one more draught of friendship before I go; and I'd perform it at once if the mug were not dry."

"Here's a mug o' small," said Mrs. Fennel. "Small, we call it, though to be sure 'tis only the first wash o' the combs."

"No," said the stranger, disdainfully. "I won't spoil your first kindness by partaking o' your second."

"Certainly not," broke in Fennel. "We don't increase and multiply every day, and I'll fill the mug again." He went away to the dark place under the stairs where the barrel stood. The shepherdess followed him.

"Why should you do this?" she said, reproachfully, as soon as they were alone. "He's emptied it once, though it held enough for ten people; and now he's not contented wi' the small, but must needs call for more o' the strong! And a stranger unbeknown to any of us. For my part, I don't like the look o' the man at all."

"But he's in the house, my honey; and 'tis a wet night, and a christening. Daze it, what's a cup of mead more or less? There'll be plenty more next bee-burning."

"Very well—this time, then," she answered, looking wistfully at the barrel. "But what is the man's calling, and where is he one of, that he should come in and join us like this?"

"I don't know. I'll ask him again."

The catastrophe of having the mug drained dry at one pull by the stranger in cinder-gray was effectually guarded against this time by Mrs. Fennel. She poured out his allowance in a small cup, keeping the large one at a discreet distance from him. When he had tossed off his

portion the shepherd renewed his inquiry about the stranger's occupation.

The latter did not immediately reply, and the man in the chimney corner, with sudden demonstrativeness, said, "Anybody may know my trade—I'm a wheelwright."

"A very good trade for these parts," said the shepherd.

"And anybody may know mine—if they've the sense to find it out," said the stranger in cinder-gray.

"You may generally tell what a man is by his claws," observed the hedge-carpenter, looking at his own hands. "My fingers be as full of thorns as an old pincushion is of pins."

The hands of the man in the chimney corner instinctively sought the shade, and he gazed into the fire as he resumed his pipe. The man at the table took up the hedge-carpenter's remark, and added smartly, "True; but the oddity of my trade is that, instead of setting a mark upon me, it sets a mark upon my customers."

No observation being offered by anybody in elucidation of this enigma, the shepherd's wife once more called for a song. The same obstacles presented themselves as at the former time—one had no voice, another had forgotten the first verse. The stranger at the table, whose soul had now risen to a good working temperature, relieved the difficulty by exclaiming that, to start the company, he would sing himself. Thrusting one thumb into the armhole of his waistcoat, he waved the other hand in the air, and, with an extemporizing gaze at the shining sheep-crooks above the mantelpiece, began:

*O my trade it is the rarest one,
Simple shepherds all—
My trade is a sight to see;
For my customers I tie, and take them up on high,
And waft 'em to a far countree!*

The room was silent when he had finished the verse—with one exception, that of the man in the chimney corner, who at the singer's word, "Chorus!" joined him in a deep bass voice of musical relish:

And waft 'em to a far countree!

Oliver Giles, John Pitcher, the dairyman, the parish-clerk, the engaged man of fifty, the row of young women against the wall, seemed lost in thought not of the gayest kind. The shepherd looked meditatively on the ground, the shepherdess gazed keenly at the singer, and with some suspicion; she was doubting whether this stranger were merely singing an old song from recollection, or was composing one there and then for the occasion. All were as perplexed at the obscure revelation as the guests at Belshazzar's Feast, except the man in the chimney corner, who quietly said, "Second verse, stranger," and smoked on.

The singer thoroughly moistened himself from his lips inward, and went on with the next stanza as requested:

*My tools are but common ones,
Simple shepherds all—
My tools are no sight to see:
A little hempen string, and a post whereon to swing,
Are implements enough for me!*

Shepherd Fennel glanced round. There was no longer any doubt that the stranger was answering his question rhythmically. The guests one and all started back with suppressed exclamations. The young woman engaged to the man of fifty fainted halfway, and would have proceeded, but finding him wanting in alacrity for catching her she sat down trembling.

"Oh, he's the——!" whispered the people in the background, mentioning the name of an ominous public officer. "He's come to do it! 'Tis to be at Casterbridge jail tomorrow—the man for sheep-stealing—the poor clockmaker we heard of, who used to live away at Shottsford and had no work to do—Timothy Summers, whose family were astarving, and so he went out of Shottsford by the highroad, and took a sheep in open daylight, defying the farmer and the farmer's wife and the farmer's lad, and every man jack among 'em. He" (and they nodded toward the stranger of the deadly trade) "is come from up the country to do it bcause there's not enough to do in his own county-town, and he's got the place here now our own county-man's dead; he's going to live in the same cottage under the prison wall."

The stranger in cinder-gray took no notice of this whispered string of observations, but again wetted his lips. Seeing that his friend in

the chimney corner was the only one who reciprocated his joviality in any way, he held out his cup toward that appreciative comrade, who also held out his own. They clinked together, the eyes of the rest of the room hanging upon the singer's actions. He parted his lips for the third verse; but at that moment another knock was audible upon the door. This time the knock was faint and hesitating.

The company seemed scared; the shepherd looked with consternation toward the entrance, and it was with some effort that he resisted his alarmed wife's deprecatory glance, and uttered for the third time the welcoming words, "Walk in!"

The door was gently opened, and another man stood upon the mat. He, like those who had preceded him, was a stranger. This time it was a short, small personage, of fair complexion, and dressed in a decent suit of dark clothes.

"Can you tell me the way to——?" he began: when, gazing round the room to observe the nature of the company among whom he had fallen, his eyes lighted on the stranger in cinder-gray. It was just at the instant when the latter, who had thrown his mind into his song with such a will that he scarcely heeded the interruption, silenced all whispers and inquiries by bursting into his third verse:

*Tomorrow is my working day,
Simple shepherds all—
Tomorrow is a working day for me:
For the farmer's sheep is slain, and the lad who did it ta'en,
And on his soul may God ha' merc-y!*

The stranger in the chimney corner, waving cups with the singer so heartily that his mead splashed over on the hearth, repeated in his bass voice as before:

And on his soul may God ha' merc-y!

All this time the third stranger had been standing in the doorway. Finding now that he did not come forward or go on speaking, the guests particularly regarded him. They noticed to their surprise that he stood before them the picture of abject terror—his knees trembling, his hand shaking so violently that the door-latch by which he sup-

ported himself rattled audibly: his white lips were parted, and his eyes fixed on the merry officer of justice in the middle of the room. A moment more and he had turned, closed the door, and fled.

“What a man can it be?” said the shepherd.

The rest, between the awfulness of their late discovery and the odd conduct of this third visitor, looked as if they knew not what to think, and said nothing. Instinctively they withdrew further and further from the grim gentleman in their midst, whom some of them seemed to take for the Prince of Darkness himself, till they formed a remote circle, an empty space of floor being left between them and him—

. . . *circulas, cujus centrum diabolus.*

The room was so silent—though there were more than twenty people in it—that nothing could be heard but the patter of the rain against the window-shutters, accompanied by the occasional hiss of a stray drop that fell down the chimney into the fire, and the steady puffing of the man in the corner, who had now resumed his pipe of long clay.

The stillness was unexpectedly broken. The distant sound of a gun reverberated through the air—apparently from the direction of the county-town.

“Be jiggered!” cried the stranger who had sung the song, jumping up.

“What does that mean?” asked several.

“A prisoner escaped from the jail—that’s what it means.”

All listened. The sound was repeated, and none of them spoke but the man in the chimney corner, who said quietly, “I’ve often been told that in this county they fire a gun at such times; but I never heard it till now.”

“I wonder if it is *my* man?” murmured the personage in cinder-gray.

“Surely it is!” said the shepherd involuntarily. “And surely we’ve zeed him! That little man who looked in at the door by now, and quivered like a leaf when he zeed ye and heard your song!”

“His teeth chattered, and the breath went out of his body,” said the dairyman.

"And his heart seemed to sink within him like a stone," said Oliver Giles.

"And he bolted as if he'd been shot at," said the hedge-carpenter.

"True—his teeth chattered, and his heart seemed to sink; and he bolted as if he'd been shot at," slowly summed up the man in the chimney corner.

"I didn't notice it," remarked the hangman.

"We were all awondering what made him run off in such a fright," faltered one of the women against the wall, "and now 'tis explained!"

The firing of the alarm-gun went on at intervals, low and sullenly, and their suspicions became a certainty. The sinister gentleman in cinder-gray roused himself. "Is there a constable here?" he asked, in thick tones. "If so, let him step forward."

The engaged man of fifty stepped quavering out from the wall, his betrothed beginning to sob on the back of the chair.

"You are a sworn constable?"

"I be, Sir."

"Then pursue the criminal at once, with assistance, and bring him back here. He can't have gone far."

"I will, Sir, I will—when I've got my staff. I'll go home and get it, and come sharp here, and start in a body."

"Staff!—never mind your staff; the man'll be gone!"

"But I can't do nothing without my staff—can I, William, and John, and Charles Jake? No; for there's the king's royal crown apainted on en in yaller and gold, and the lion and the unicorn, so as when I raise en up and hit my prisoner, 'tis made a lawful blow thereby. I wouldn't 'tempt to take up a man without my staff—no, not I. If I hadn't the law to gie me courage, why, instead o' my taking up him he might take up me!"

"Now, I'm a king's man myself, and can give you authority enough for this," said the formidable officer in gray. "Now then, all of ye, be ready. Have ye any lanterns?"

"Yes—have ye any lanterns?—I demand it!" said the constable.

“And the rest of you able-bodied——”

“Able-bodied men—yes—the rest of ye!” said the constable.

“Have you some good stout staves and pitchforks——”

“Staves and pitchforks—in the name o’ the law! And take ’em in yer hands and go in quest, and do as we in authority tell ye!”

Thus aroused, the men prepared to give chase. The evidence was, indeed, though circumstantial, so convincing, that but little argument was needed to show the shepherd’s guests that after what they had seen it would look very much like connivance if they did not instantly pursue the unhappy third stranger, who could not as yet have gone more than a few hundred yards over such uneven country.

A shepherd is always well provided with lanterns; and, lighting these hastily, and with hurdle-staves in their hands, they poured out of the door, taking a direction along the crest of the hill, away from the town, the rain having fortunately a little abated.

Disturbed by the noise, or possibly by unpleasant dreams of her baptism, the child who had been christened began to cry heart-brokenly in the room overhead. These notes of grief came down through the chinks of the floor to the ears of the women below, who jumped up one by one, and seemed glad of the excuse to ascend and comfort the baby, for the incidents of the last half-hour greatly oppressed them. Thus in the space of two or three minutes the room on the ground-floor was deserted quite.

But it was not for long. Hardly had the sound of footsteps died away when a man returned round the corner of the house from the direction the pursuers had taken. Peeping in at the door, and seeing nobody there, he entered leisurely. It was the stranger of the chimney corner, who had gone out with the rest. The motive of his return was shown by his helping himself to a cut piece of skimmer-cake that lay on a ledge beside where he had sat, and which he had apparently forgotten to take with him. He also poured out half a cup more mead from the quantity that remained, ravenously eating and drinking these as he stood. He had not finished when another figure came in just as quietly—his friend in cinder-gray.

“Oh—you here?” said the latter, smiling. “I thought you had gone to help in the capture.” And this speaker also revealed the object of his

return by looking solicitously round for the fascinating mug of old mead.

"And I thought you had gone," said the other, continuing his skimmer-cake with some effort.

"Well, on second thoughts, I felt there were enough without me," said the first confidentially, "and such a night as it is, too. Besides, 'tis the business o' the Government to take care of its criminals—not mine."

"True; so it is. And I felt as you did, that there were enough without me."

"I don't want to break my limbs running over the humps and hollows of this wild country."

"Nor I neither, between you and me."

"These shepherd-people are used to it—simple-minded souls, you know, stirred up to anything in a moment. They'll have him ready for me before the morning, and no trouble to me at all."

"They'll have him, and we shall have saved ourselves all labor in the matter."

"True, true. Well, my way is to Casterbridge; and 'tis as much as my legs will do to take me that far. Going the same way?"

"No, I am sorry to say! I have to get home over there" (he nodded indefinitely to the right), "and I feel as you do, that it is quite enough for my legs to do before bedtime."

The other had by this time finished the mead in the mug, after which, shaking hands heartily at the door, and wishing each other well, they went their several ways.

In the meantime the company of pursuers had reached the end of the hog's-back elevation which dominated this part of the down. They had decided on no particular plan of action; and, finding that the man of the baleful trade was no longer in their company, they seemed quite unable to form any such plan now. They descended in all directions down the hill, and straightway several of the party fell into the snare set by Nature for all misguided midnight ramblers over this part of the cretaceous formation. The "lanchets," or flint slopes, which belted the escarpment at intervals of a dozen yards, took the less cautious ones unawares, and losing their footing on the rubbly steep they slid sharply

downward, the lanterns rolling from their hands to the bottom, and there lying on their sides till the horn was scorched through.

When they had again gathered themselves together, the shepherd, as the man who knew the country best, took the lead, and guided them round these treacherous inclines. The lanterns, which seemed rather to dazzle their eyes and warn the fugitive than to assist them in the exploration, were extinguished, due silence was observed; and in this more rational order they plunged into the vale. It was a grassy, briery, moist defile, affording some shelter to any person who had sought it; but the party perambulated it in vain, and ascended on the other side. Here they wandered apart, and after an interval closed together again to report progress. At the second time of closing in they found themselves near a lonely ash, the single tree on this part of the coomb, probably sown there by a passing bird some fifty years before. And here, standing a little to one side of the trunk, as motionless as the trunk itself appeared the man they were in quest of, his outline being well defined against the sky beyond. The band noiselessly drew up and faced him.

“Your money or your life!” said the constable sternly to the still figure.

“No, no,” whispered John Pitcher. “’Tisn’t our side ought to say that. That’s the doctrine of vagabonds like him, and we be on the side of the law.”

“Well, well,” replied the constable, impatiently; “I must say something, mustn’t I? and if you had all the weight o’ this undertaking upon your mind, perhaps you’d say the wrong thing, too!—Prisoner at the bar, surrender in the name of the Father—the Crown, I mane!”

The man under the tree seemed now to notice them for the first time, and, giving them no opportunity whatever for exhibiting their courage, he strolled slowly toward them. He was, indeed, the little man, the third stranger; but his trepidation had in a great measure gone.

“Well, travelers,” he said, “did I hear you speak to me?”

“You did; you’ve got to come and be our prisoner at once!” said the constable. “We arrest ’ee on the charge of not biding in Casterbridge

jail in a decent proper manner to be hung tomorrow morning. Neighbors, do your duty, and seize the culprit!"

On hearing the charge, the man seemed enlightened, and, saying not another word, resigned himself with preternatural civility to the search-party, who, with their staves in their hands, surrounded him on all sides, and marched him back toward the shepherd's cottage.

It was eleven o'clock by the time they arrived. The light shining from the open door, a sound of men's voices within, proclaimed to them as they approached the house that some new events had arisen in their absence. On entering they discovered the shepherd's living-room to be invaded by two officers from Casterbridge jail, and a well-known magistrate who lived at the nearest country-seat, intelligence of the escape having become generally circulated.

"Gentlemen," said the constable, "I have brought back your man—not without risk and danger; but every one must do his duty! He is inside this circle of able-bodied persons, who have lent me useful aid, considering their ignorance of Crown work.—Men, bring forward your prisoner!" And the third stranger was led to the light.

"Who is this?" said one of the officials.

"The man," said the constable.

"Certainly not," said the turnkey; and the first corroborated his statement.

"But how can it be otherwise?" asked the constable. "Or why was he so terrified at sight o' the singing instrument of the law who sat there?" Here he related the strange behavior of the third stranger on entering the house during the hangman's song.

"Can't understand it," said the officer coolly. "All I know is that it is not the condemned man. He's quite a different character from this one; a gauntish fellow, with dark hair and eyes, rather good-looking, and with a musical bass voice that if you heard it once you'd never mistake as long as you lived."

"Why, souls—'twas the man in the chimney corner!"

"Hey—what?" said the magistrate, coming forward after inquiring particulars from the shepherd in the background. "Haven't you got the man after all?"

"Well, Sir," said the constable, "he's the man we were in search of, that's true; and yet he's not the man we were in search of. For the man we were in search of was not the man we wanted, Sir, if you understand my everyday way; for 'twas the man in the chimney corner!"

"A pretty kettle of fish altogether!" said the magistrate. "You had better start for the other man at once."

The prisoner now spoke for the first time. The mention of the man in the chimney corner seemed to have moved him as nothing else could do. "Sir," he said, stepping forward to the magistrate, "take no more trouble about me. The time is come when I may as well speak. I have done nothing; my crime is that the condemned man is my brother. Early this afternoon I left home at Shottsford to tramp it all the way to Casterbridge jail to bid him farewell. I was benighted, and called here to rest and ask the way. When I opened the door I saw before me the very man, my brother, that I thought to see in the condemned cell at Casterbridge. He was in this chimney corner; and jammed close to him, so that he could not have got out if he had tried, was the executioner who'd come to take his life, singing a song about it and not knowing that it was his victim who was close by, joining in to save appearances. My brother looked a glance of agony at me, and I know he meant, 'Don't reveal what you see; my life depends on it.' I was so terror-struck that I could hardly stand, and, not knowing what I did, I turned and hurried away."

The narrator's manner and tone had the stamp of truth, and his story made a great impression on all around. "And do you know where your brother is at the present time?" asked the magistrate.

"I do not. I have never seen him since I closed this door."

"I can testify to that, for we've been between ye ever since," said the constable.

"Where does he think to fly to?—what is his occupation?"

"He's a watch-and-clock-maker, Sir."

"'A said 'a was a wheelwright—a wicked rogue," said the constable.

"The wheels of clocks and watches he meant, no doubt," said Shepherd Fennel. "I thought his hands were palish for's trade."

"Well, it appears to me that nothing can be gained by retaining this

poor man in custody," said the magistrate; "your business lies with the other, unquestionably."

And so the little man was released off-hand; but he looked nothing the less sad on that account, it being beyond the power of magistrate or constable to raze out the written troubles in his brain, for they concerned another whom he regarded with more solicitude than himself. When this was done, and the man had gone his way, the night was found to be so far advanced that it was deemed useless to renew the search before the next morning.

Next day, accordingly, the quest for the clever sheep-stealer became general and keen, to all appearance at least. But the intended punishment was cruelly disproportioned to the transgression, and the sympathy of a great many country-folk in that district was strongly on the side of the fugitive. Moreover, his marvelous coolness and daring in hob-and-nobbing with the hangman, under the unprecedented circumstances of the shepherd's party, won their admiration. So that it may be questioned if all those who ostensibly made themselves so busy in exploring woods and fields and lanes were quite so thorough when it came to the private examination of their own lofts and outhouses. Stories were afloat of a mysterious figure being occasionally seen in some old overgrown trackway or other, remote from turnpike roads, but when a search was instituted in any of these suspected quarters nobody was found. Thus the days and weeks passed without tidings.

In brief, the bass-voiced man of the chimney corner was never recaptured. Some said that he went across the sea, others that he did not, but buried himself in the depths of a populous city. At any rate, the gentleman in cinder-gray never did his morning's work at Casterbridge, nor met anywhere at all, for business purposes, the genial comrade with whom he had passed an hour of relaxation in the lonely house on the coomb.

The grass has long been green on the graves of Shepherd Fennel and his frugal wife; the guests who made up the christening party have mainly followed their entertainers to the tomb; the baby in whose honor they all had met is a matron in the sere and yellow leaf. But the arrival of the three strangers at the shepherd's that night, and the details connected therewith, is a story as well-known as ever in the country about Higher Crowstairs.

GUY DE MAUPASSANT

HIPPOLYTE'S CLAIM

A sample of de Maupassant's frolicsome stories, *Hippolyte's Claim* involves a grotesque contract and the lawsuit that arose from it.

THE FAT JUSTICE of the Peace, with one eye closed and the other half-open, is listening with evident displeasure to the plaintiffs. Once in a while he gives a sort of grunt that foretells his opinion, and in a thin voice resembling that of a child, he interrupts them to ask questions. He has just rendered judgment in the case of Monsieur Joly against Monsieur Petitpas, the contestants having come to court on account of the boundary of a field which had been accidentally overstepped by Monsieur Petitpas's farmhand, while the latter was plowing.

Now he calls the case of Hippolyte Lacour, vestryman and iron-monger, against Madame Céleste Céсарine Luneau, widow of Anthime Isidore Luneau.

Hippolyte Lacour is forty-five years old; he is tall and gaunt, with a clean-shaven face and long hair, and he speaks in a slow, singsong voice.

Madame Luneau appears to be about forty years of age. She is built like a prize-fighter, and her plain dress is stretched tightly over her portly form. Her enormous hips hold up her overflowing bosom in front, while in the back they support the great rolls of flesh that cover her shoulders. Her face, with strongly-cut features, rests on a short, fat neck, and her strong voice is pitched at a key that makes the windows and the eardrums of her auditors vibrate. She is about to become a mother and her huge form protrudes like a mountain.

The witnesses for the defense are waiting to be called.

His Honor begins: Hippolyte Lacour, state your complaint.

The plaintiff speaks: Your Honor, it will be nine months on Saint-Michael's day that the defendant came to me one evening, after I

had rung the Angelus, and began an explanation relating to her barrenness.

The Justice of the Peace: Kindly be more explicit.

Hippolyte: Very well, your Honor. Well, she wanted to have a child and desired my participation. I didn't raise any objection, and she promised to give me one hundred francs. The thing was all cut and dried, and now she refuses to acknowledge my claim, which I renew before your Honor.

The Justice: I don't understand in the least. You say that she wanted a child! What kind of child? Did she wish to adopt one?

Hippolyte: No, your Honor, she wanted a new one.

The Justice: What do you mean by a new one?

Hippolyte: I mean a newborn child, one that we were to beget as if we were man and wife.

The Justice: You astonish me. To what end did she make this abnormal proposition?

Hippolyte: Your Honor, at first I could not make out her reasons, and was taken a little aback. But as I don't do anything without thoroughly investigating beforehand, I called on her to explain matters to me, which she did. You see, her husband, Anthime Isidore, whom you knew as well as you know me, had died the week before, and his money reverted to his family. This greatly displeased her on account of the loss it meant, so she went to a lawyer who told her all about what might happen if a child should be born to her after ten months. I mean by this that if she gave birth to a child inside of the ten months following the death of Anthime Isidore, her offspring would be considered legitimate and would entitle her to the inheritance. She made up her mind at once to run the risk, and came to me after church, as I have already had the honor of telling you, seeing that I am the father of eight living children, the eldest of whom is a grocer in Caen, department of Calvados, and legitimately married to Victoire-Elisabeth Rabou—

The Justice: These details are superfluous. Go back to the subject.

Hippolyte: I am getting there, your Honor. So she said to me: "If you succeed, I'll give you one hundred francs as soon as I get

the doctor's report." Well, your Honor, I made ready to give entire satisfaction, and after eight weeks or so I learned with pleasure that I had succeeded. But when I asked her for the hundred francs she refused to pay me. I renewed my demands several times, never getting so much as a pin. She even called me a liar and a weakling, a libel which can be destroyed by glancing at her.

The Justice: Defendant, what have you to say?

Madame Luneau: Your Honor, I say that this man is a liar.

The Justice: How can you prove this assertion?

Madame Luneau [red in the face, choking and stammering]: How can I prove it? What proofs have I? I haven't a single real proof that the child isn't his. But, your Honor, it isn't his, I swear it on the head of my dead husband.

The Justice: Well, whose is it, then?

Madame Luneau [stammering with rage]: How do I know? How do—do I know? Everybody's I suppose. Here are my witnesses, your Honor, they're all here, the six of them. Now make them testify, make them testify. They'll tell—

The Justice: Collect yourself, Madame Luneau, collect yourself and reply calmly to my questions. What reasons have you to doubt that this man is the father of the child you are carrying?

Madame Luneau: What reasons? I have a hundred to one, a hundred? No, two hundred, five hundred, ten thousand, a million and more reasons to believe he isn't. After the proposal I made to him, with the promise of one hundred francs, didn't I learn that he wasn't the father of his own children, your Honor, not the father of one of 'em?

Hippolyte [calmly]: That's a lie.

Madame Luneau [exasperated]: A lie! A lie, is it? I guess his wife has been seen by everybody around here. Call my witnesses, your Honor, and make them testify?

Hippolyte [calmly]: It's a lie.

Madame Luneau: It's a lie, is it? How about the red-haired ones, then? I suppose they're yours, too?

The Justice: Kindly refrain from personal attacks, or I shall be obliged to call you to order.

Madame Luneau: Well, your Honor, I had my doubts about him, and said I to myself, two precautions are better than one, so I explained my position to Césaire Lepic, the witness who is present. Says he to me, "At your disposal, Madame Luneau," and he lent me his assistance in case Hippolyte should turn out to be unreliable. But as soon as the other witnesses heard that I wanted to make sure against any disappointment, I could have had more than a hundred, your Honor, if I had wanted them. That tall one over there, Lucas Chandelier, swore at the time that I oughtn't to give Hippolyte Lacour a cent, for he hadn't done more than the rest of them who had obliged me for nothing.

Hippolyte: What did you promise for? I expected the money, your Honor. No mistake with me,—a promise given, a promise kept.

Madame Luneau [beside herself]: "One hundred francs! One hundred francs! One hundred francs for that, you liar! The others there didn't ask a red cent! Look at 'em, all six of 'em! Make them testify, your Honor, they'll tell sure. [To Hippolyte.] Look at 'em, you liar! they're as good as you. They're only six, but I could have had one, two, three, five hundred of 'em for nothing, too, you robber!"

Hippolyte: Well, even if you'd had a hundred thousand—

Madame Luneau: I could, if I'd wanted 'em.

Hippolyte: I did my duty, so it doesn't change matters.

Madame Luneau [slapping her protuberant form with both hands]: Then prove that it's you that did it, prove it, you robber! I defy you to prove it!

Hippolyte [calmly]: Maybe I didn't do any more than anybody else. But you promised me a hundred francs for it. What did you ask the others for, afterward? You had no right to. I guess I could have done it alone.

Madame Luneau: It is not true, robber! Call my witnesses, your Honor; they'll answer, sure.

The Justice called the witnesses in behalf of the defense. Six red, awkward individuals appeared.

The Justice: Lucas Chandelier, have you any reason to suppose that you are the father of the child Madame Luneau is carrying.

Lucas Chandelier: Yes, sir.

The Justice: Célestin-Pierre Sidoine, have you any reason to suppose that you are the father of the child Madame Luneau is carrying?

Celestin-Pierre Sidoine: Yes, sir.

The four other witnesses testified to the same effect.

The Justice, after a pause, pronounced judgment: Whereas the plaintiff has reasons to believe himself the father of the child which Madame Luneau desired, Lucas Chandelier, Célestin-Pierre Sidoine, and others, have similar, if not conclusive reasons to lay claim to the child:

But whereas Mme. Luneau had previously asked the assistance of Hippolyte Lacour for a duly stated consideration:

And whereas one may not question the absolute good faith of Hippolyte Lacour, though it is questionable whether he had a perfect right to enter into such an agreement, seeing that the plaintiff is married, and compelled by the law to remain faithful to his lawful spouse:

Therefore the Court condemns Madame Luneau to pay an indemnity of twenty-five francs to Hippolyte Lacour for loss of time and unjustifiable abduction.

CHARLES LEVER

CON CREGAN'S LEGACY

This short story by the Irish author Charles Lever (1806–1872) is a droll account of the fraudulent fabrication of a will by successful impersonation of a man who actually died intestate.

I WAS BORN in a little cabin on the borders of Meath and King's County; it stood on a small triangular bit of ground, beside a cross-road; and although the place was surveyed every ten years or so, they were never able to say to which county we belonged; there being just the same number of arguments for one side as for the other—a circumstance, many believed, that decided my father in his original choice of the residence; for while, under the “disputed boundary question,” he paid no rates or county cess, he always made a point of voting at both county elections. This may seem to indicate that my parent was of a naturally acute habit; and, indeed, the way he became possessed of the bit of ground will confirm that impression.

There was nobody of the rank of gentry in the parish, not even “squireen”; the richest being a farmer, a snug old fellow, one Harry McCabe, that had two sons, who were always fighting between themselves which was to have the old man's money. Peter, the elder, doing everything to injure Mat, and Mat never backward in paying off the obligation. At last Mat, tired out in the struggle, resolved he would bear no more. He took leave of his father one night, and next day set off for Dublin, and listed in the “Buffs.” Three weeks after he sailed for India; and the old man, overwhelmed by grief, took to his bed, and never arose from it after. Not that his death was in any way sudden, for he lingered on for months long; Peter always teasing him to make his will, and be revenged on “the dirty spalpeen” that disgraced the family, but old Harry as stoutly resisting, and declaring that whatever he owned should be fairly divided between them. These disputes between them were well known in the neighbourhood. Few of the country people passing the house at night but had overheard the old man's weak, reedy voice, and Peter's deep hoarse one, in altercation. When,

at last—it was on a Sunday night—all was still and quiet in the house; not a word, not a footstep could be heard, no more than if it were uninhabited, the neighbours looked knowingly at each other, and wondered if the old man was worse—if he were dead!

It was a little after midnight that a knock came to the door of our cabin. I heard it first, for I used to sleep in a little snug basket near the fire; but I didn't speak, for I was frightened. It was repeated still louder, and then came a cry—

“Con Cregan! Con, I say! open the door! I want you.”

I knew the voice well, it was Peter McCabe's; but I pretended to be fast asleep, and snored loudly. At last my father unbolted the door, and I heard him say—

“Oh, Mr. Peter, what's the matter? is the ould man worse?”

“Faix! that's what he is, for he's dead!”

“Glory be his bed! when did it happen?”

“About an hour ago,” said Peter, in a voice that even I from my corner could perceive was greatly agitated. “He died like an ould haythen, Con, and never made a will!”

“That's bad,” said my father; for he was always a polite man, and said whatever was pleasing to the company.

“It is bad,” said Peter; “but it would be worse if we couldn't help it. Listen to me now, Conny, I want ye to help me in this business; and here's five guineas in goold, if ye do what I bid ye. You know that ye were always reckoned the image of my father, and before he took ill ye were mistaken for each other every day of the week.”

“Anan!” said my father; for he was getting frightened at the notion, without well knowing why.

“Well, what I want is, for ye to come over to the house and get into the bed.”

“Not beside the corpse?” said my father, trembling.

“By no means; but by yourself; and you're to pretend to be my father, and that ye want to make yer will before ye die; and then I'll send for the neighbors, and Billy Scanlan the schoolmaster, and ye'll tell him what to write, laving all the farm and everything to me--ye

understand. And as the neighbours will see ye and hear yer voice, it will never be believed but it was himself that did it."

"The room must be very dark," says my father.

"To be sure it will, but have no fear! Nobody will dare to come nigh the bed; and ye'll only have to make a cross with your pen under the name."

"And the priest?" said my father.

"My father quarrelled with him last week about the Easter dues, and Father Tom said he'd not give him the 'rites'; and that's lucky now! Come along now, quick, for we've no time to lose; it must be all finished before the day breaks."

My father did not lose much time at his toilet, for he just wrapped his big coat 'round him, and slipping on his brogues, left the house. I sat up in the basket and listened till they were gone some minutes; and then, in a costume light as my parent's, set out after them, to watch the course of the adventure. I thought to take a short cut and be before them; but by bad luck I fell into a bog-hole, and only escaped being drowned by a chance. As it was, when I reached the house the performance had already begun. I think I see the whole scene this instant before my eyes, as I sat on a little window with one pane, and that a broken one, and surveyed the proceeding. It was a large room, at one end of which was a bed, and beside it a table, with physic-bottles, and spoons, and tea-cups; a little farther off was another table, at which sat Billy Scanlan, with all manner of writing materials before him. The country people sat two, sometimes three deep round the walls, all intently eager and anxious for the coming event. Peter himself went from place to place, trying to smother his grief, and occasionally helping the company to whisky—which was supplied with more than accustomed liberality. All my consciousness of the deceit and trickery could not deprive the scene of a certain solemnity. The misty distance of the half-lighted room; the highly-wrought expression of the country people's faces, never more intensely excited than at some moment of this kind; the low, deep-drawn breathings, unbroken save by a sigh or a sob—the tribute of some affectionate sorrow to some lost friend, whose memory was thus forcibly brought back; these, I repeat it, were all so real that, as I looked, a thrilling sense of awe stole over me, and I actually shook with fear.

A low, faint cough, from the dark corner where the bed stood, seemed to cause even a deeper stillness; and then in a silence where the buzzing of a fly would have been heard, my father said—

“Where’s Billy Scanlan? I want to make my will!”

“He’s here, father!” said Peter, taking Billy by the hand and leading him to the bedside.

“Write what I bid ye, Billy, and be quick, for I hav’n’t a long time before me here. I die a good Catholic, though Father O’Rafferty won’t give me the ‘rites’!”

A general chorus of “Oh, musha, musha,” was now heard through the room; but whether in grief over the sad fate of the dying man, or the unflinching severity of the priest, is hard to say.

“I die in peace with all my neighbours and all mankind!”

Another chorus of the company seemed to approve these charitable expressions.

“I bequeath unto my son, Peter—and never was there a better son, or a decenter boy!—have you that down? I bequeath unto my son, Peter, the whole of my two farms of Killimundoonery and Knocksheboorn, with the fallow meadows behind Lynch’s house; the forge, and the right of turf on the Dooran bog. I give him, and much good may it do him, Lanty Cassarn’s acre, and the Luary field, with the limekiln—and that reminds me that my mouth is just as dry; let me taste what ye have in the jug.”

Here the dying man took a very hearty pull, and seemed considerably refreshed by it.

“Where was I, Billy Scanlan?” says he; “oh, I remember, at the limekiln; I leave him—that’s Peter, I mean—the two potato-gardens at Noonan’s Well; and it is the elegant fine crops grows there.”

“An’t you gettin’ wake, father, darlin’?” says Peter, who began to be afraid of my father’s loquaciousness; for, to say the truth, the punch got into his head, and he was greatly disposed to talk.

“I am, Peter, my son,” says he, “I am getting wake; just touch my lips again with the jug. Ah, Peter, Peter, you watered the drink!”

"No, indeed, father, but it's the taste is leavin' you," says Peter; and again a low chorus of compassionate pity murmured through the cabin.

"Well, I'm nearly done now," says my father; "there's only one little plot of ground remaining, and I put it on you, Peter—as ye wish to live a good man, and die with the same asy heart I do now—that ye mind my last words to ye here. Are ye listening? Are the neighbours listening? Is Billy Scanlan listening?"

"Yes, sir. Yes, father. We're all minding," chorused the audience.

"Well, then, it's my last will and testament, and may—give me over the jug"—here he took a long drink—"and may that blessed liquor be poison to me if I'm not as eager about this as every other part of my will; I say, then, I bequeath the little plot at the cross-roads to poor Con Cregan; for he has a heavy charge, and is as honest and as hard-working a man as ever I knew. Be a friend to him, Peter dear; never let him want while ye have it yerself; think of me on my deathbed whenever he asks ye for any trifle. Is it down, Billy Scanlan? the two acres at the cross to Con Cregan and his heirs, in *secla seclorum*. Ah, blessed be the saints! but I feel my heart lighter after that," says he; "a good work makes an easy conscience; and now I'll drink all the company's good health, and many happy returns——"

What he was going to add there's no saying; but Peter, who was now terribly frightened at the lively tone the sick man was assuming, hurried all the people away into another room, to let his father die in peace. When they were all gone Peter slipped back to my father, who was putting on his brogues in a corner.

"Con," says he, "ye did it all well; but sure that was a joke about the two acres at the cross."

"Of course it was," says he; "sure it was all a joke for the matter of that; won't I make the neighbours laugh hearty to-morrow when I tell them all about it!"

"You wouldn't be mean enough to betray me?" says Peter, trembling with fright.

"Sure ye wouldn't be mean enough to go against yer father's dying words?" says my father; "the last sentence ever he spoke;" and here he gave a low, wicked laugh that made me shake with fear.

“Very well, Con!” says Peter, holding out his hand; “a bargain’s a bargain; yer a deep fellow, that’s all!” and so it ended; and my father slipped quietly home over the bog, mighty well satisfied with the legacy he left himself. And thus we became the owners of the little spot known to this day as Con’s Acre.

LUIGI PIRANDELLO

THE MADONNA'S GIFT

It is a principle of enlightened criminal jurisprudence that mental delusion excuses an otherwise criminal act if actual facts like those fancied by the deluded mind would legally deprive the act of criminal character. The possibility of this situation is illustrated by this wonderful tale by the eminent Italian writer, Pirandello (1867–1936). *The Madonna's Gift* describes an event reasonably believed by eyewitnesses to be the flagrant theft of a rosary, committed in a church, when, in fact, the apparent thief took the precious beads in the honest but deluded conviction that the Madonna, in answer to his prayer, had made him a gift of the rosary.

+	ASSUNTA
+	FILOMENA
+	CROCIFISSA
+	ANGELICA
+	MARGHERITA
+	

A CROSS—and opposite the cross the name of the daughter who had died. . . . There were five names in the column, and then a sixth cross, ready for the name of the last daughter—Agatha—whose sufferings would soon come to an end.

Don Nuccio D'Alagna put his fingers in his ears, to keep out the sound of her cough, which came to him from the next room. As if himself attacked by the paroxysm, he blinked his eyes, wrinkling up his haggard, bristly face, and rose to his feet.

He seemed almost lost in his enormous coat. It was a garment whose original colour could no longer be discerned, and it showed how charity can play the buffoon when it wishes, for he had undoubtedly received that old coat as a charitable donation. To remedy as far as possible the redundancy of the gift, Don Nuccio had rolled up the sleeves several times until they ended at his thin wrists. But, like that coat, everything about him—his utter destitution, his misfortunes, the bareness of that house, so full of light, but also of flies—everything gave the impression of an exaggeration that was hardly credible.

Before going into the next room, he waited for a few moments, knowing that his daughter did not like him to hurry to her immediately

after one of those attacks of coughing: he spent the time in obliterating with his finger the grave-yard which he had sketched out on the table-top.

* * * * *

Apart from the sick girl's wretched pallet, that other room contained only a ramshackle chair and a straw mattress rolled up on the floor which the old man dragged every morning into the next room, and on which, without undressing, he threw himself down to sleep. The walls were covered with paper which had been elegant in its day, but was now faded, torn and hanging in tatters. There were marks on the walls that showed where pieces of furniture, long since sold, had once stood, and the cobwebs they had concealed still clung there.

The light was so bright in that bare, resonant room that the pale, emaciated face of the sick girl lying on the bed seemed almost to disappear, leaving only the eyes, sunk deep in blue hollows. But, to make up for that, her red hair, spread on the pillow, with the sun shining on to it, seemed like a blazing fire. There she lay, very still now, looking at her hands in the sunshine, or twisting round her fingers the curling ends of that magnificent hair. She was so quiet and still in that empty sunlit room that there was a feeling of unreality, almost of the supernatural about her—or there would have been, but for the buzzing of the flies.

Seated on the only chair, Don Nuccio began to turn over in his mind a very desirable prospect for his daughter, the only desirable prospect remaining for her. He prayed that God would open her eyes, that her terrible suffering, lying there on the foul straw mattress of that bed in the empty house, would induce her to ask to be transferred to the hospital, a place that none of her sisters, who had died before her, had been willing to enter.

One died there just the same? No!—Don Nuccio shook his head conclusively—it was different there—so much cleaner.

In his mind's eye, he had a clear picture of a long, bright ward with a row of innumerable white cots down each side, and a huge window at the end, showing the blue sky. He saw once more the sisters of charity with those big white wings to their hoods and those medals hanging from their rosaries, which clinked together at every step they

took. He could see, too, an old priest, who led him by the hand along that ward: dazed by his distress, he peered at one bed after another: at last the priest said to him: "Here", and led him to the side of one of those beds. On it, at the point of death and no longer recognisable, lay the wretched woman, mother of his six daughters, who had run away from his home only to end up in that place. Yes, it was his wife. . . . His eldest daughter, Assunta, had already died, at the age of twelve.

"She took after you. She does not forgive you," he had said.

"Nuccio D'Alagna!" The old priest spoke sharply to him: "We are in God's presence."

"Yes, father. It is God's will, so I forgive her."

"Also in the name of the daughters?"

"One is dead, father. In the name of the five who will follow after her."

* * * * *

All of them, in fact, died, one after the other; and Don Nuccio had now become almost stupefied. In dying, those five girls had carried off with them his soul—all save a shred of it attached to the last daughter. This shred, however, though only as it were a filament, still remained alight at the tip, burning with a small, bright flame—his faith. Death, life, mankind, advancing years, all had blown upon it to put it out—they had not succeeded.

One morning he had seen a neighbour, who lived opposite, open the door of his bird-cage and drive away a tame chaffinch which Don Nuccio had sold him for a few coppers some days previously. It was winter and the rain was falling; the poor little bird had come to the windows of his former room and fluttered against them, as if asking for help and hospitality. He had opened the window—how he had caressed that little head, soaked by the rain! Then the bird had perched on his shoulder, just as it used to do, and had started pecking the lobe of his ear. But why had that neighbour turned it out of the cage? It was not long before Don Nuccio discovered the reason. He had already noticed, some days before, that people avoided him in the street and that those who saw him pass made certain gestures. . . .

The bird had remained in his house throughout the winter, hopping and flying about the two rooms, singing happily, well satisfied with some bread-crumbs. When the fine weather came, it flew away, but not all at once; first it made little excursions to the roofs of the neighbouring houses, returning at nightfall; then it had gone away for good.

Oh, well! One might turn a bird out. . . . But to turn him out also, with his daughter at death's door, to throw him into the street—was that conscience?

“As for conscience, Don Nuccio, I’ve got a conscience. But I’m also the manager of the lottery,” was the answer he received from Spiga, who had employed him in his gambling-shop for many years.

Every trade, every profession has its own conscience. If one is a seller of lottery tickets, can one be held to be doing a bad action in taking the bread out of the mouth of an old man who has a reputation in the village of possessing the evil eye, so that he cannot attract clients to try their luck in gambling?

Don Nuccio had to admit the force of that cogent argument and left the shop in tears. It was a Saturday evening. In the house opposite, that same neighbour who had turned the chaffinch out of the cage, was giving a dinner in celebration of his success in the lottery. And it was he, Don Nuccio himself, who had issued the ticket to that neighbour. That was a fine proof of his having the evil eye!

He sat at his window, looking into the house opposite, at the sumptuous feast and the guests chattering as they ate and drank. After a time, one of them rose and banged to the shutters of the window facing him.

Ah well! It was God’s will. . . .

* * * * *

He said it without a shadow of irony—Don Nuccio D’Alagna—that if all these troubles had come upon him, it was a sign that it was God’s will. It was his favourite expression and each time he uttered it, he would roll back his long sleeves until his thin wrists emerged.

“All nonsense,” was however the reply which always came from Don Bartolo Scimpri, the only person left who was not afraid to approach him.

Tall as a maypole, big-boned and black as charcoal, Don Bartolo Scimpri still wore a priest's robes, although he had been excommunicated some years back. The sleeves of his greasy gown, now green with age, had the opposite drawback to those of Don Nuccio's coat, for they only reached a little below the elbow, leaving his hairy forearms exposed to view. The hem of his robe revealed not only his huge feet shod in the heavy boots worn by the peasants, but often even his sunburnt shins, because his habit of screwing up his cotton socks tightly at the top, to make them cling to his calves, invariably ended in their collapsing in tatters on to his ankles.

He enjoyed boasting of his ugliness, of his forehead, which ran in a straight line from the top of his bald head right down to the tip of his enormous nose, giving him the strangest resemblance to a turkey.

"This is the sail," he would exclaim, slapping his forehead. "It fills with the breath of the divine spirit!"

Then, taking his huge nose between two fingers:—

"This is the helm!"

And he would give a loud snort and jerk the two fingers away with a flutter, as if they had been scorched.

He was at open warfare with all the clergy, because, as he expressed it, the clergy had crippled God. The devil, on the other hand, had made great progress. At all costs, it was necessary to rejuvenate God, to make Him travel by rail, to bring Him up to date, and have done with all those mysteries, so that He could get ahead of the devil.

"Electric light! Electric light!" he used to shout, waving his long, sleeveless arms. "I know who takes advantage of all this darkness. 'God' means 'Light'."

It was high time to stop all those silly performances of the religious ceremonies—masses and adoration of the Host. He drew a comparison between the priest in his long ceremony of the consecration of the wafer which he then swallows, and the cat which first plays with the mouse and then devours it.

He had founded 'the New Church' and was already engaged in drawing up the articles of the New Faith. He thought them out at night and wrote them down. But first he had to discover the treasure. How? By means of a clairvoyant. He had one, who assisted him in diagnosing illnesses. For Don Bartolo also healed the sick. He

healed them with certain decoctions, extracted from special herbs, always in accordance with the instructions of the clairvoyant.

Marvellous cures were ascribed to Don Bartolo, but he was not boastful about them. Bodily health he would restore gratis to anyone who had faith in his method of treatment. He himself set as his goal something quite different—to prepare people for the healing of their souls.

People could not make up their minds whether to look upon him as a madman or a charlatan. Some said one thing, some the other. A heretic he was, for sure, and perhaps possessed by the devil. The hut in which he lived, in his small holding close by the cemetery, above the village, seemed like a wizard's den. Lantern in hand, the peasants from round about would repair there at night, their heads shrouded in the hoods of their cloaks, to obtain information from the clairvoyant as to the exact sites of certain *trovatura*—treasures which were said to have been buried in the neighbourhood at the time of the revolution. They shook with fear whilst Don Bartolo, mute and spectral, was hypnotising the clairvoyant, his hands held above her head, in the flickering light of a vegetable-oil lamp. They shook with fear, too, when he left the woman asleep in the hut and asked them to come outside with him, and made them kneel down on the bare earth beneath the starry sky. He too knelt down. First he would listen to the subdued night sounds, then say mysteriously:—

“Sssss . . . there it comes! there it comes!”

And, lifting up his head, he improvised strange prayers, which seemed to his audience to be blasphemies and invocations of the devil.

Re-entering the hut, he would say:—

“That is how one should pray to God, in His temple, along with the crickets and the frogs.”

If a little creaking sound came from the old worm-eaten chest that lay like a coffin in the corner of the hut, or if the wick of the oil lamp sputtered at a puff of air, a shudder passed over the watching peasants, who crouched there intent and stiff with fright.

Once the treasure was found, the New Church could be made public; it would be open to the air and sunlight, without altars or images. As to the functions of the New Priests, Don Bartolo came to expound

them daily to Don Nuccio D'Alagna—the only person who would listen to him without protesting or running away with his fingers in his ears.

He did, however, from time to time venture to say, with a sigh: "Leave it in God's hands!"

But Don Bartolo inevitably retorted: "All nonsense!"

Out of charity, he gave Don Nuccio the work of copying, at so much a page, the articles of the New Faith which he scribbled at night. He also brought him food and magic drugs for the sick daughter.

As soon as his visitor had left, Don Nuccio would hurry to the church to ask pardon of God the Father, Jesus, the Virgin and all the saints, as many as he had heard of, for all the blasphemies he had to listen to and for the diabolical stuff he had to copy in the evening, out of sheer necessity. Had it been for himself alone, he would rather have died of starvation; but it was also for his daughter, poor innocent soul. The devout Christians had all abandoned her. Could it be the will of God that in their utter destitution, in the black darkness of their misery, the only light of charity that shone upon them should come from that demon garbed as a priest? What should he do, O Lord, what should he do? What great sin had he committed, so that even that mouthful of bread must seem to him poisoned by the hand that offered it? He knew that that man exercised a fiendish power over him.

"Set me free, O Virgin Mary, set me free from him!"

Don Nuccio knelt on the steps in front of the niche where the Madonna stood. She was decked out with gems and golden coins and she wore a blue silk dress and a white cloak spangled with golden stars. He raised his eyes, brimming over with tears, to the smiling face of the Mother of God. He preferred to address his supplication to her, that by her entreaties she should obtain from God forgiveness for his sins—not so much for the accursed bread which he ate, not so much for the diabolical writings which he had to copy, as for another sin, beyond a doubt the gravest of all. He confessed it in fear and trembling. He had allowed himself to be put to sleep by Don Bartolo, just like the clairvoyant.

The first time, he had done it for his daughter's sake, to find, whilst in the hypnotic trance, the herb which was to cure her. The herb had

not been found, but he had continued to allow himself to be hypnotised, in order to feel that new gratification, the beatitude of that strange sleep.

"Let us fly, Don Nuccio, let us fly!" Don Bartolo would say to him, holding his two thumbs, whilst he was already asleep yet still able to see! "Do you feel you have wings? That's right! Then let's have a good flight. I'll show you the way."

The girl, raising herself on one elbow in the bed, watched the scene, wide-eyed with anxiety and fright: she saw her father's closed eyelids quiver as if he was dazzled by the giddy rapidity of his flight, and had lost his way over an immense glittering expanse.

"Water . . . lots of water . . . lots of water . . ." Don Nuccio murmured with a gasp, and it seemed as if his voice came from very far away.

"We will cross that sea," replied Don Bartolo in a deep voice, his brows knotted as if his will-power was being taxed to the utmost. "We will alight at Naples, Don Nuccio. You'll see what a fine city it is. Then we will continue our flight and go to Rome to worry the Pope, buzzing around him in the form of a blue-bottle." . . .

"O Virgin Mary, O most holy Mother!" Don Nuccio would afterwards pray before her shrine, "set me free from that devil who holds me in his power." . . .

Don Bartolo did indeed hold him in bondage, and only needed to look at him in a certain way, for him to feel at once a curious collapse of all his limbs, and for his eyes to close of their own accord. As he sat at his daughter's bedside, Don Nuccio could always tell by a certain trembling in his body, when Don Bartolo was coming, even before he had so much as set his foot on the staircase.

"Here he is, he's coming," he would say; and shortly after, Don Bartolo would indeed appear and would greet the father and daughter with his deep, full tones:—

"Benedicite."

* * * * *

"He is coming," said Don Nuccio to his daughter one day when, after a violent attack of coughing, she had suddenly felt better, really relieved, so much so that she had started talking in a way quite unusual

for her, not indeed of getting well—for she could not deceive herself to that extent—but of a possible brief respite from the malady, so that she might leave her bed for a while.

Hearing her speak like that, Don Nuccio felt himself at death's door. O Virgin Mary! was that to be her last day? For the other daughters had also talked like that—"Better, I'm better!"—and had died soon afterwards. Was this then the freedom which the Virgin was granting him? That was not at all what he had so often prayed for. He had prayed for his own death, so that his daughter, finding herself alone, should consent to be taken to the hospital. Instead of that, was he to be left alone? Was he to be at the death-bed of that last child, that poor helpless darling? Was that God's will?

Don Nuccio clenched his fist: if his daughter was dying, he had no longer need of anything, or of any one. All the less, therefore, would he be in need of the man who, whilst succouring the wants of the body, was damning his soul.

He stood up and pressed his hands hard against his face.

"What's the matter, Papa?" the girl asked in surprise.

"He is coming, he is coming," he replied, as if speaking to himself, and he clenched and unclenched his fists, making no attempt to conceal his agitation.

"Well, what if he *is* coming . . ." said little Agatha with a smile.

"I'm going to kick him out!" and Don Nuccio left the room, determined to do so.

That was what God wished. That was why God left him alive and was taking away his daughter. He wished for a rebellious up-rising against the tyranny of that demon. He wished to give him time to repent of his great sin. With these thoughts in his mind, he hurried to meet Don Bartolo and stop him at the entrance.

Don Bartolo was coming quite slowly up the last stairs. He looked up, saw Don Nuccio on the landing at the top, and greeted him as usual:—

"Benedicite."

"Stop! stop!" blurted out Don Nuccio, almost choking with excitement and distress. With arms extended, he stood in front of Don Bartolo and said:—

"To-day the Lord is coming for my daughter."

"Has it come to that?" asked Don Bartolo in a tone of deep sympathy. He attributed the old man's agitation to the imminence of the disaster. "Let me see her."

"No! I tell you!" cried Don Nuccio wildly holding him back by the arm. "In the name of God I say to you, do not go in!"

Don Bartolo looked at him in amazement.

"But why not?"

"Because God commands me thus! Go away! Go away! My soul may be damned, but respect that of an innocent girl, who is soon to appear before the judgment seat of God!"

"Ah! You would turn me out—would you?" said Don Bartolo pointing his forefinger at his breast. "Turn *me* out?" he stormed, drawing himself up to his full height, and looking in his indignation a different person. "So you also, you poor worm, you also, like all this herd of beasts, think me a demon do you? Answer me!"

Don Nuccio leaned back against the wall near the door: he could no longer stand without support: he seemed to become smaller and smaller at each word he heard.

"Ungrateful, low beast!" Don Bartolo continued. "So you also turn against me, following in the footsteps of people who have kicked you for a mangy cur? You bite the hand that has given you bread? I! I have damned your soul! Earth-worm! I would squash you under my feet, if I did not feel such disgust and pity for you! Look me in the eyes! Look at me! Who will keep you from starvation? Who will pay for your daughter's funeral? Be off, be off to church and ask for the money from your Madonna—your Madonna, all decked out like a loose woman!"

For a long time he stared at him with his terrible eyes; then, as if during that stare he had completed his plans for a savage revenge, he burst into a loud scornful laugh and repeated three times with ever-increasing contempt:—

"Beast! Beast! Beast!"

He turned and went away.

Don Nuccio fell upon his knees, crushed and exhausted. He did not know how long he stayed there on the landing, collapsed like an empty sack. He could not tell how he reached the church and came to the Madonna's shrine. He found himself there, as if in a dream, prostrate, with his face pressed against the steps in front of the niche. He rose to his knees and a flood of words, which scarcely seemed to be his own, burst fervently from his lips:—

"I have suffered so much . . . I have had such troubles and still it is not the end. . . . Holy Virgin, I have always given you praise. That I should die first—no, you did not wish it. . . . May your holy will be done. Command me, and always, up to the last, I will obey you. I have come here, I have come to offer you with my own hands my last daughter, the last of my blood. Take her to you quickly, O mother of the afflicted. Do not let me have her suffer any longer! I know we are not alone, neither are we abandoned by you. We have your precious aid and in your merciful, blessed hands we place our appeal. O holy hands, O sweet hands, hands that heal every wound, blessed be the head upon which they are placed. If I am not unworthy, those hands will now succour me, will help me to provide for my daughter. O holy Virgin—the candles and the coffin. How shall I provide them? You will provide, O Mother of God! You will provide! Will you? Will you? . . ."

At that moment, in the midst of his delirious prayer, he witnessed a miracle, and a silent smile—almost the smile of one demented—spread over his whole face, transfiguring it.

"Yes?" he asked and then at once shrank back, silent and awed, sitting on his heels, his arms folded across his breast.

For he had seen, in a sudden flash, the smile on the Virgin's face come to life. The smile which had played about her lips now beamed quite lifelike from the eyes; and from those lips, though he could hear no voice, he *saw* words come forth:—

"Take this".

The Virgin moved her hand, from whose fingers dangled a rosary of gold and pearls.

“Take this” the lips repeated still more clearly, for he had remained there as if petrified. Alive, dear God! Alive! Alive! those lips . . . and alive that hand that was urging him with a gesture of invitation. . . . And see! now the head—the head also was moving, urging him to accept the proffered gift. He moved slowly forward. It was as if some outside power was forcing him to extend his trembling hand towards the Madonna’s gift. He was just on the point of receiving the rosary when, from the shadow of the other nave, there came a shout like thunder:—

“Thief! Thief!”

Don Nuccio fell back as if struck by lightning.

A man at once ran up, shouting, seized him by the arms and dragged him to his feet, shaking him and handling him roughly.

“You thief! An old man like you stealing! In the Lord’s house. . . . Robbing the holy Virgin! Thief! Thief!”

Still screaming at Don Nuccio and spitting in his face, he dragged him towards the door of the church. People loitering in the square rushed to see what was happening and joined in a chorus of abuse, while some of them kicked, struck at, and spat upon the old man, who could only groan and mutter in a demented manner:—

“A gift . . . a gift from the Virgin Mary . . . it was a gift. . . .”

He caught a glimpse of the sun-lit square with the shadow of the cypress tree growing in front of the church, and it seemed to him as if that shadow suddenly rose upright from the square and took on the appearance of a colossal Don Bartolo Scimpri, shaking his head and giving vent to his savage laughter. At the sight, Don Nuccio uttered a scream and fainted in the arms of the people who were dragging him along.

The Gilded Age

SOMERSET MAUGHAM

THE LETTER

Somerset Maugham was born in Paris in 1874, where his father was in the employ of the British Embassy. He spoke French before he knew English, yet became one of the most brilliant stars in the firmament of English literature. Of his many short stories, all of which reflect a mastery of technique and style, none is finer than the suspense-laden recital that follows. It describes the extraordinary circumstances that lead to the acquittal, in the face of clear guilt, of a society woman who deliberately committed murder, and whose defense counsel, acting in violation of professional ethics, abetted this miscarriage of justice.

OUTSIDE on the quay the sun beat fiercely. A stream of motors, lorries and buses, private cars and hirelings, sped up and down the crowded thoroughfare, and every chauffeur blew his horn; rickshaws threaded their nimble path amid the throng, and the panting coolies found breath to yell at one another; coolies, carrying heavy bales, sidled along with their quick jog-trot and shouted to the passer-by to make way; itinerant vendors proclaimed their wares. Singapore is the meeting-place of a hundred peoples; and men of all colours, black Tamils, yellow Chinks, brown Malays, Armenians, Jews and Bengalis, called to one another in raucous tones. But inside the office of Messrs. Ripley, Joyce & Naylor it was pleasantly cool; it was dark after the dusty glitter of the street and agreeably quiet after its unceasing din. Mr. Joyce sat in his private room, at the table, with an electric fan turned full on him. He was leaning back, his elbows on the arms of the chair, with the tips of the outstretched fingers of one hand resting neatly against the tips of the outstretched fingers of the other. His gaze rested on the battered volumes of the Law Reports which stood on a long shelf in front of him. On the top of a cupboard were square boxes of japanned tin on which were painted the names of various clients.

There was a knock at the door.

"Come in."

A Chinese clerk, very neat in his white ducks, opened it.

"Mr. Crosbie is here, sir."

He spoke beautiful English, accenting each word with precision, and Mr. Joyce had often wondered at the extent of his vocabulary. Ong Chi Seng was a Cantonese, and he had studied law at Gray's Inn. He was

spending a year or two with Messrs. Ripley, Joyce & Naylor in order to prepare himself for practice on his own account. He was industrious, obliging, and of exemplary character.

"Show him in," said Mr. Joyce.

He rose to shake hands with his visitor and asked him to sit down. The light fell on him as he did so. The face of Mr. Joyce remained in shadow. He was by nature a silent man, and now he looked at Robert Crosbie for quite a minute without speaking. Crosbie was a big fellow well over six feet high, with broad shoulders, and muscular. He was a rubber-planter, hard with the constant exercise of walking over the estate and with the tennis which was his relaxation when the day's work was over. He was deeply sunburned. His hairy hands, his feet in clumsy boots, were enormous, and Mr. Joyce found himself thinking that a blow of that great fist would easily kill the fragile Tamil. But there was no fierceness in his blue eyes; they were confiding and gentle; and his face, with its big, undistinguished features, was open, frank and honest. But at this moment it bore a look of deep distress. It was drawn and haggard.

"You look as though you hadn't had much sleep the last night or two," said Mr. Joyce.

"I haven't."

Mr. Joyce noticed now the old felt hat, with its broad double brim, which Crosbie had placed on the table; and then his eyes travelled to the khaki shorts he wore, showing his red hairy thighs, the tennis shirt open at the neck, without a tie, and the dirty khaki jacket with the ends of the sleeves turned up. He looked as though he had just come in from a long tramp among the rubber trees. Mr. Joyce gave a slight frown.

"You must pull yourself together, you know. You must keep your head."

"Oh, I'm all right."

"Have you seen your wife to-day?"

"No, I'm to see her this afternoon. You know, it is a damned shame that they should have arrested her."

"I think they had to do that," Mr. Joyce answered in his level, soft tone.

"I should have thought they'd have let her out on bail."

"It's a very serious charge."

"It is damnable. She did what any decent woman would do in her place. Only, nine women out of ten wouldn't have the pluck. Leslie's the best woman in the world. She wouldn't hurt a fly. Why, hang it all, man, I've been married to her for twelve years, do you think I don't know her? God, if I'd got hold of the man I'd have wrung his neck. I'd have killed him without a moment's hesitation. So would you."

"My dear fellow, everybody's on your side. No one has a good word to say for Hammond. We're going to get her off. I don't suppose either the assessors or the judge will go into court without having already made up their minds to bring in a verdict of not guilty."

"The whole thing's a farce," said Crosbie violently. "She ought never to have been arrested in the first place, and then it's terrible, after all the poor girl's gone through, to subject her to the ordeal of a trial. There's not a soul I've met since I've been in Singapore, man or woman, who hasn't told me that Leslie was absolutely justified. I think it's awful to keep her in prison all these weeks."

"The law is the law. After all, she confesses that she killed the man. It is terrible, and I'm dreadfully sorry both for you and for her."

"I don't matter a hang," interrupted Crosbie.

"But the fact remains that murder has been committed, and in a civilized community a trial is inevitable."

"Is it murder to exterminate noxious vermin? She shot him as she would have shot a mad dog."

Mr. Joyce leaned back again in his chair and once more placed the tips of his ten fingers together. The little construction he formed looked like the skeleton of a roof. He was silent for a moment.

"I should be wanting in my duty as your legal adviser," he said at last, in an even voice, looking at his client with his cool, brown eyes, "if I did not tell you that there is one point which causes me just a little anxiety. If your wife had only shot Hammond once, the whole thing would be absolutely plain sailing. Unfortunately she fired six times."

"Her explanation is perfectly simple. In the circumstances any one would have done the same."

"I daresay," said Mr. Joyce, "and of course I think the explanation is very reasonable. But it's no good closing our eyes to the facts. It's always a good plan to put yourself in another man's place, and I can't deny that if I were prosecuting for the Crown that's the point on which I should centre my enquiry."

"My dear fellow, that's perfectly idiotic."

Mr. Joyce shot a sharp glance at Robert Crosbie. The shadow of a smile hovered over his shapely lips. Crosbie was a good fellow, but he could hardly be described as intelligent.

"I daresay it's of no importance," answered the lawyer, "I just thought it was a point worth mentioning. You haven't got very long to wait now, and when it's all over I recommend you to go off somewhere with your wife on a trip and forget all about it. Even though we are almost dead certain to get an acquittal, a trial of that sort is anxious work and you'll both want a rest."

For the first time Crosbie smiled, and his smile strangely changed his face. You forgot the uncouthness and saw only the goodness of his soul.

"I think I shall want it more than Leslie. She's borne up wonderfully. By God, there's a plucky little woman for you."

"Yes, I've been very much struck by her self-control," said the lawyer. "I should never have guessed that she was capable of such determination."

His duties as her counsel had made it necessary for him to have a good many interviews with Mrs. Crosbie since her arrest. Though things had been made as easy as could be for her, the fact remained that she was in jail, awaiting her trial for murder, and it would not have been surprising if her nerves had failed her. She appeared to bear her ordeal with composure. She read a great deal, took such exercise as was possible, and by favour of the authorities worked at the pillow lace which had always formed the entertainment of her long hours of leisure. When Mr. Joyce saw her she was neatly dressed in cool, fresh, simple frocks, her hair was carefully arranged, and her nails were manicured. Her manner was collected. She was able even to jest

upon the little inconveniences of her position. There was something casual about the way in which she spoke of the tragedy, which suggested to Mr. Joyce that only her good breeding prevented her from finding something a trifle ludicrous in a situation which was eminently serious. It surprised him, for he had never thought that she had a sense of humour.

He had known her off and on for a good many years. When she paid visits to Singapore she generally came to dine with his wife and himself, and once or twice she had passed a week-end with them at their bungalow by the sea. His wife had spent a fortnight with her on the estate and had met Geoffrey Hammond several times. The two couples had been on friendly, if not on intimate, terms, and it was on this account that Robert Crosbie had rushed over to Singapore immediately after the catastrophe and begged Mr. Joyce to take charge personally of his unhappy wife's defence.

The story she told him the first time he saw her, she had never varied in the smallest detail. She told it as coolly then, a few hours after the tragedy, as she told it now. She told it connectedly, in a level, even voice, and her only sign of confusion was when a slight colour came into her cheeks as she described one or two of its incidents. She was the last woman to whom one would have expected such a thing to happen. She was in the early thirties, a fragile creature, neither short nor tall, and graceful rather than pretty. Her wrists and ankles were very delicate, but she was extremely thin and you could see the bones of her hands through the white skin, and the veins were large and blue. Her face was colourless, slightly sallow, and her lips were pale. You did not notice the colour of her eyes. She had a great deal of light brown hair and it had a slight natural wave; it was the sort of hair that with a little touching-up would have been very pretty, but you could not imagine that Mrs. Crosbie would think of resorting to any such device. She was a quiet, pleasant, unassuming woman. Her manner was engaging and if she was not very popular it was because she suffered from a certain shyness. This was comprehensible enough, for the planter's life is lonely, and in her own house, with people she knew, she was in her quiet way charming. Mrs. Joyce after her fortnight's stay had told her husband that Leslie was a very agreeable hostess. There was more in her, she said, than people thought; and

when you came to know her you were surprised how much she had read and how entertaining she could be.

She was the last woman in the world to commit murder.

Mr. Joyce dismissed Robert Crosbie with such reassuring words as he could find and, once more alone in his office, turned over the pages of the brief. But it was a mechanical action, for all its details were familiar to him. The case was the sensation of the day, and it was discussed in all the clubs, at all the dinner tables, up and down the Peninsula from Singapore to Penang. The facts that Mrs. Crosbie gave were simple. Her husband had gone to Singapore on business and she was alone for the night. She dined by herself, late, at a quarter to nine, and after dinner sat in the sitting-room working at her lace. It opened on to the verandah. There was no one in the bungalow, for the servants had retired to their own quarters at the back of the compound. She was surprised to hear a step on the gravel path in the garden, a booted step which suggested a white man rather than a native, for she had not heard a motor drive up and she could not imagine who could be coming to see her at that time of night. Someone ascended the few stairs that led up to the bungalow, walked across the verandah, and appeared at the door of the room in which she sat. At the first moment she did not recognize the visitor. She sat with a shaded lamp and he stood with his back to the darkness.

"May I come in?" he said.

She did not even recognize the voice.

"Who is it?" she asked.

She worked with spectacles, and she took them off as she spoke.

"Geoff. Hammond."

"Of course. Come in and have a drink."

She rose and shook hands with him cordially. She was a little surprised to see him, for though he was a neighbour neither she nor Robert had been lately on very intimate terms with him, and she had not seen him for some weeks. He was the manager of a rubber estate nearly eight miles from theirs and she wondered why he had chosen this late hour to come and see them.

"Robert's away," she said. "He had to go to Singapore for the night."

Perhaps he thought his visit called for some explanation, for he said:

"I'm sorry. I felt rather lonely to-night, so I thought I'd just come along and see how you were getting on."

"How on earth did you come? I never heard a car."

"I left it down the road. I thought you might both be in bed and asleep."

This was natural enough. The planter gets up at dawn in order to take the roll-call of the workers, and soon after dinner he is glad to go to bed. Hammond's car was in point of fact found next day a quarter of a mile from the bungalow.

Since Robert was away there was no whisky and soda in the room. Leslie did not call the boy, since he was probably asleep, but fetched it herself. Her guest mixed himself a drink and filled his pipe.

Geoff. Hammond had a host of friends in the colony. He was at this time in the late thirties, but he had come out as a lad. He had been one of the first to volunteer on the outbreak of war, and had done very well. A wound in the knee caused him to be invalided out of the army after two years, but he returned to the Federated Malay States with a D.S.O. and an M.C. He was one of the best billiard players in the colony. He had been a beautiful dancer and a fine tennis player, but, though able no longer to dance, and his tennis, with a stiff knee, was not so good as it had been, he had the gift of popularity and was universally liked. He was a tall, good-looking fellow, with attractive blue eyes and a fine head of black, curling hair. Old stagers said his only fault was that he was too fond of the girls, and after the catastrophe they shook their heads and vowed that they had always known this would get him into trouble.

He began now to talk to Leslie about the local affairs, the forthcoming races in Singapore, the price of rubber, and his chances of killing a tiger which had been lately seen in the neighbourhood. She was anxious to finish by a certain date the piece of lace on which she was working, for she wanted to send it home for her mother's birthday,

and so put on her spectacles again and drew towards her chair the little table on which stood the pillow.

"I wish you wouldn't wear those great horn-spectacles," he said. "I don't know why a pretty woman should do her best to look plain."

She was a trifle taken aback at this remark. He had never used that tone with her before. She thought the best thing was to make light of it.

"I have no pretensions to being a raving beauty, you know, and, if you ask me point blank, I'm bound to tell you that I don't care two pins if you think me plain or not."

"I don't think you're plain. I think you're awfully pretty."

"Sweet of you," she answered ironically. "But in that case I can only think you half-witted."

He chuckled. But he rose from his chair and sat down in another by her side.

"You're not going to have the face to deny that you have the prettiest hands in the world," he said.

He made a gesture as though to take one of them. She gave him a little tap.

"Don't be an idiot. Sit down where you were before and talk sensibly, or else I shall send you home."

He did not move.

"Don't you know that I'm awfully in love with you?" he said.

She remained quite cool.

"I don't. I don't believe it for a minute, and even if it were true I don't want you to say it."

She was the more surprised at what he was saying, since during the seven years she had known him he had never paid her any particular attention. When he came back from the war they had seen a good deal of one another, and once when he was ill Robert had gone over and brought him back to their bungalow in his car. He had stayed with them then for a fortnight. But their interests were dissimilar and the acquaintance had never ripened into friendship. For the last two or three years they had seen little of him. Now and then he came over to play tennis, now and then they met him at some planter's who was

giving a party, but it often happened that they did not set eyes on him for a month at a time.

Now he took another whisky and soda. Leslie wondered if he had been drinking before. There was something odd about him, and it made her a trifle uneasy. She watched him help himself with disapproval.

"I wouldn't drink any more if I were you," she said, good-humouredly still.

He emptied his glass and put it down.

"Do you think I'm talking to you like this because I'm drunk?" he asked abruptly.

"That is the most obvious explanation, isn't it?"

"Well, it's a lie. I've loved you ever since I first knew you. I've held my tongue as long as I could, and now it's got to come out. I love you, I love you, I love you."

She rose and carefully put aside the pillow.

"Good-night," she said.

"I'm not going now."

At last she began to lose her temper.

"But, you poor fool, don't you know that I've never loved any one but Robert, and even if I didn't love Robert you're the last man I should care for."

"What do I care? Robert's away."

"If you don't go away this minute I shall call the boys and have you thrown out."

"They're out of earshot."

She was very angry now. She made a movement as though to go on to the verandah from which the house-boy would certainly hear her, but he seized her arm.

"Let me go," she cried furiously.

"Not much. I've got you now."

She opened her mouth and called "Boy, boy," but with a quick gesture he put his hand over it. Then before she knew what he was

about he had taken her in his arms and was kissing her passionately. She struggled, turning her lips away from his burning mouth.

“No, no, no,” she cried. “Leave me alone. I won’t.”

She grew confused about what happened then. All that had been said before she remembered accurately, but now his words assailed her ears through a mist of horror and fear. He seemed to plead for her love. He broke into violent protestations of passion. And all the time he held her in his tempestuous embrace. She was helpless, for he was a strong, powerful man, and her arms were pinioned to her sides; her struggles were unavailing and she felt herself growing weaker; she was afraid she would faint, and his hot breath on her face made her feel desperately sick. He kissed her mouth, her eyes, her cheeks, her hair. The pressure of his arms was killing her. He lifted her off her feet. She tried to kick him, but he only held her more closely. He was carrying her now. He wasn’t speaking any more, but she knew that his face was pale and his eyes hot with desire. He was taking her into the bedroom. He was no longer a civilized man, but a savage. And as he ran he stumbled against a table which was in the way. His stiff knee made him a little awkward on his feet, and with the burden of the woman in his arms he fell. In a moment she had snatched herself away from him. She ran round the sofa. He was up in a flash and flung himself towards her. There was a revolver on the desk. She was not a nervous woman, but Robert was to be away for the night and she had meant to take it into her room when she went to bed. That was why it happened to be there. She was frantic with terror now. She did not know what she was doing. She heard a report. She saw Hammond stagger. He gave a cry. He said something, she didn’t know what. He lurched out of the room on to the verandah. She was in a frenzy now, she was beside herself, she followed him out, yes, that was it, she must have followed him out, though she remembered nothing of it, she followed firing automatically shot after shot till the six chambers were empty. Hammond fell down on the floor of the verandah. He crumpled up into a bloody heap.

When the boys, startled by the reports, rushed up, they found her standing over Hammond with the revolver still in her hand, and Hammond lifeless. She looked at them for a moment without speaking. They stood in a frightened, huddled bunch. She let the revolver fall

from her hand and without a word turned and went into the sitting-room. They watched her go into her bedroom and turn the key in the lock. They dared not touch the dead body, but looked at it with terrified eyes, talking excitedly to one another in undertones. Then the head-boy collected himself; he had been with them for many years, he was Chinese and a level-headed fellow. Robert had gone into Singapore on his motor-cycle and the car stood in the garage. He told the seis to get it out; they must go at once to the Assistant District Officer and tell him what had happened. He picked up the revolver and put it in his pocket. The A.D.O., a man called Withers, lived on the outskirts of the nearest town, which was about thirty-five miles away. It took them an hour and a half to reach him. Every one was asleep, and they had to rouse the boys. Presently Withers came out and they told him their errand. The head-boy showed him the revolver in proof of what he said. The A.D.O. went into his room to dress, sent for his car, and in a little while was following them back along the deserted road. The dawn was just breaking as he reached the Crosbies' bungalow. He ran up the steps of the verandah, and stopped short as he saw Hammond's body lying where he fell. He touched the face. It was quite cold.

"Where's mem?" he asked the house-boy.

The Chinese pointed to the bedroom. Withers went to the door and knocked. There was no answer. He knocked again.

"Mrs. Crosbie," he called.

"Who is it?"

"Withers."

There was another pause. Then the door was unlocked and slowly opened. Leslie stood before him. She had not been to bed and wore the tea-gown in which she had dined. She stood and looked silently at the A.D.O.

"Your house-boy fetched me," he said. "Hammond. What have you done?"

"He tried to rape me and I shot him."

"My God! I say, you'd better come out here. You must tell me exactly what happened."

"Not now. I can't. You must give me time. Send for my husband."

Withers was a young man, and he did not know exactly what to do in an emergency which was so out of the run of his duties. Leslie refused to say anything till at last Robert arrived. Then she told the two men the story, from which since then, though she had repeated it over and over again, she had never in the slightest degree diverged.

The point to which Mr. Joyce recurred was the shooting. As a lawyer he was bothered that Leslie had fired not once but six times, and the examination of the dead man showed that four of the shots had been fired close to the body. One might almost have thought that when the man fell she stood over him and emptied the contents of the revolver into him. She confessed that her memory, so accurate for all that had preceded, failed her here. Her mind was blank. It pointed to an uncontrollable fury; but uncontrollable fury was the last thing you would have expected from this quiet and demure woman. Mr. Joyce had known her a good many years, and had always thought her an unemotional person; during the weeks that had passed since the tragedy her composure had been amazing.

Mr. Joyce shrugged his shoulders

"The fact is, I suppose," he reflected, "that you can never tell what hidden possibilities of savagery there are in the most respectable of women."

There was a knock at the door.

"Come in."

The Chinese clerk entered and closed the door behind him. He closed it gently, with deliberation, but decidedly, and advanced to the table at which Mr. Joyce was sitting.

"May I trouble you, sir, for a few words' private conversation?" he said.

The elaborate accuracy with which the clerk expressed himself always faintly amused Mr. Joyce, and now he smiled.

"It's no trouble, Chi Seng," he replied.

"The matter on which I desire to speak to you, sir, is delicate and confidential."

"Fire away."

Mr. Joyce met his clerk's shrewd eyes. As usual Ong Chi Seng was dressed in the height of local fashion. He wore very shiny patent-leather shoes and gay silk socks. In his black tie was a pearl and ruby pin, and on the fourth finger of his left hand a diamond ring. From the pocket of his neat white coat protruded a gold fountain pen and a gold pencil. He wore a gold wrist-watch, and on the bridge of his nose invisible pince-nez. He gave a little cough.

"The matter has to do with the case *R. v. Crosbie*, sir."

"Yes?"

"A circumstance has come to my knowledge, sir, which seems to me to put a different complexion on it."

"What circumstance?"

"It has come to my knowledge, sir, that there is a letter in existence from the defendant to the unfortunate victim of the tragedy."

"I shouldn't be at all surprised. In the course of the last seven years I have no doubt that Mrs. Crosbie often had occasion to write to Mr. Hammond."

Mr. Joyce had a high opinion of his clerk's intelligence and his words were designed to conceal his thoughts.

"That is very probable, sir. Mrs. Crosbie must have communicated with the deceased frequently, to invite him to dine with her for example, or to propose a tennis game. That was my first thought when the matter was brought to my notice. This letter, however, was written on the day of the late Mr. Hammond's death."

Mr. Joyce did not flicker an eyelash. He continued to look at Ong Chi Seng with the smile of faint amusement with which he generally talked to him.

"Who has told you this?"

"The circumstances were brought to my knowledge, sir, by a friend of mine."

Mr. Joyce knew better than to insist,

"You will no doubt recall, sir, that Mrs. Crosbie has stated that until the fatal night she had had no communication with the deceased for several weeks."

"Have you got the letter?"

"No, sir."

"What are its contents?"

"My friend gave me a copy. Would you like to peruse it, sir?"

"I should."

Ong Chi Seng took from an inside pocket a bulky wallet. It was filled with papers, Singapore dollar notes and cigarette cards. From the confusion he presently extracted a half sheet of thin note-paper and placed it before Mr. Joyce. The letter read as follows:

R. will be away for the night. I absolutely must see you. I shall expect you at eleven. I am desperate and if you don't come I won't answer for the consequences. Don't drive up.—L.

It was written in the flowing hand which the Chinese were taught at the foreign schools. The writing, so lacking in character, was oddly incongruous with the ominous words.

"What makes you think that this note was written by Mrs. Crosbie?"

"I have every confidence in the veracity of my informant, sir," replied Ong Chi Seng. "And the matter can very easily be put to the proof. Mrs. Crosbie will no doubt be able to tell you at once whether she wrote such a letter or not."

Since the beginning of the conversation Mr. Joyce had not taken his eyes off the respectful countenance of his clerk. He wondered now if he discerned in it a faint expression of mockery.

"It is inconceivable that Mrs. Crosbie should have written such a letter," said Mr. Joyce.

"If that is your opinion, sir, the matter is of course ended. My friend spoke to me on the subject only because he thought, as I was in your office, you might like to know of the existence of this letter before a communication was made to the Deputy Public Prosecutor."

"Who has the original?" asked Mr. Joyce sharply.

Ong Chi Seng made no sign that he perceived in this question and its manner a change of attitude.

"You will remember, sir, no doubt, that after the death of Mr. Hammond it was discovered that he had had relations with a Chinese woman. The letter is at present in her possession."

That was one of the things which had turned public opinion most vehemently against Hammond. It came to be known that for several months he had had a Chinese woman living in his house.

For a moment neither of them spoke. Indeed everything had been said and each understood the other perfectly.

"I'm obliged to you, Chi Seng. I will give the matter my consideration."

"Very good, sir. Do you wish me to make a communication to that effect to my friend?"

"I daresay it would be as well if you kept in touch with him," Mr. Joyce answered with gravity.

"Yes, sir."

The clerk noiselessly left the room, shutting the door again with deliberation, and left Mr. Joyce to his reflections. He stared at the copy, in its neat, impersonal writing, of Leslie's letter. Vague suspicions troubled him. They were so disconcerting that he made an effort to put them out of his mind. There must be a simple explanation of the letter, and Leslie without doubt could give it at once, but, by heaven, an explanation was needed. He rose from his chair, put the letter in his pocket, and took his topee. When he went out Ong Chi Seng was busily writing at his desk.

"I'm going out for a few minutes, Chi Seng," he said.

"Mr. George Reed is coming by appointment at twelve o'clock, sir. Where shall I say you've gone?"

Mr. Joyce gave him a thin smile.

"You can say that you haven't the least idea."

But he knew perfectly well that Ong Chi Seng was aware that he was going to the jail. Though the crime had been committed in Belanda and the trial was to take place at Belanda Bharu, since there was in

the jail there no convenience for the detention of a white woman Mrs. Crosbie had been brought to Singapore.

When she was led into the room in which he waited she held out her thin, distinguished hand, and gave him a pleasant smile. She was as ever neatly and simply dressed and her abundant, pale hair was arranged with care.

"I wasn't expecting to see you this morning," she said graciously.

She might have been in her own house, and Mr. Joyce almost expected to hear her call the boy and tell him to bring the visitor a gin pahit.

"How are you?" he asked.

"I'm in the best of health, thank you." A flicker of amusement flashed across her eyes. "This is a wonderful place for a rest cure."

The attendant withdrew and they were left alone.

"Do sit down," said Leslie.

He took a chair. He did not quite know how to begin. She was so cool that it seemed almost impossible to say to her the thing he had come to say. Though she was not pretty there was something agreeable in her appearance. She had elegance, but it was the elegance of good breeding in which there was nothing of the artifice of society. You had only to look at her to know what sort of people she had and what kind of surroundings she had lived in. Her fragility gave her a singular refinement. It was impossible to associate her with the vaguest idea of grossness.

"I'm looking forward to seeing Robert this afternoon," she said, in her good-humoured, easy voice. (It was a pleasure to hear her speak, her voice and her accent were so distinctive of her class.) "Poor dear, it's been a great trial to his nerves. I'm thankful it'll all be over in a few days."

"It's only five days now."

"I know. Each morning when I awake I say to myself, 'one less.' " She smiled then. "Just as I used to do at school and the holidays were coming."

"By the way, am I right in thinking that you had no communication whatever with Hammond for several weeks before the catastrophe?"

"I'm quite positive of that. The last time we met was at a tennis-party at the MacFarrens'. I don't think I said more than two words to him. They have two courts, you know, and we didn't happen to be in the same sets."

"And you haven't written to him?"

"Oh, no."

"Are you quite sure of that?"

"Oh, quite," she answered, with a little smile. "There was nothing I should write to him for except to ask him to dine or to play tennis, and I hadn't done either for months."

"At one time you'd been on fairly intimate terms with him. How did it happen that you had stopped asking him to anything?"

Mrs. Crosbie shrugged her thin shoulders.

"One gets tired of people. We hadn't anything very much in common. Of course, when he was ill Robert and I did everything we could for him, but the last year or two he'd been quite well, and he was very popular. He had a good many calls on his time, and there didn't seem to be any need to shower invitations upon him."

"Are you quite certain that was all?"

Mrs. Crosbie hesitated for a moment.

"Well, I may just as well tell you. It had come to our ears that he was living with a Chinese woman, and Robert said he wouldn't have him in the house. I had seen her myself."

Mr. Joyce was sitting in a straight-backed arm-chair, resting his chin on his hand, and his eyes were fixed on Leslie. Was it his fancy that as she made this remark her black pupils were filled on a sudden, for the fraction of a second, with a dull red light? The effect was startling. Mr. Joyce shifted in his chair. He placed the tips of his ten fingers together. He spoke very slowly, choosing his words.

"I think I should tell you that there is in existence a letter in your handwriting to Geoff. Hammond."

He watched her closely. She made no movement, nor did her face change colour, but she took a noticeable time to reply.

"In the past I've often sent him little notes to ask him to something or other, or to get me something when I knew he was going to Singapore."

"This letter asks him to come and see you because Robert was going to Singapore."

"That's impossible. I never did anything of the kind."

"You'd better read it for yourself."

He took it out of his pocket and handed it to her. She gave it a glance and with a smile of scorn handed it back to him.

"That's not my handwriting."

"I know, it's said to be an exact copy of the original."

She read the words now, and as she read a horrible change came over her. Her colourless face grew dreadful to look at. It turned green. The flesh seemed on a sudden to fall away and her skin was tightly stretched over the bones. Her lips receded, showing her teeth, so that she had the appearance of making a grimace. She stared at Mr. Joyce with eyes that started from their sockets. He was looking now at a gibbering death's head.

"What does it mean?" she whispered.

Her mouth was so dry that she could utter no more than a hoarse sound. It was no longer a human voice.

"That is for you to say," he answered.

"I didn't write it. I swear I didn't write it."

"Be very careful what you say. If the original is in your handwriting it would be useless to deny it."

"It would be a forgery."

"It would be difficult to prove that. It would be easy to prove that it was genuine."

A shiver passed through her lean body. But great beads of sweat stood on her forehead. She took a handkerchief from her bag and wiped the palms of her hands. She glanced at the letter again and gave Mr. Joyce a sidelong look.

"It's not dated. If I had written it and forgotten all about it, it might have been written years ago. If you'll give me time, I'll try and remember the circumstances."

"I noticed there was no date. If this letter were in the hands of the prosecution they would cross-examine the boys. They would soon find out whether someone took a letter to Hammond on the day of his death."

Mrs. Crosbie clapsed her hands violently and swayed in her chair so that he thought she would faint.

"I swear to you that I didn't write that letter."

Mr. Joyce was silent for a little while. He took his eyes from her distraught face, and looked down on the floor. He was reflecting.

"In these circumstances we need not go into the matter further," he said slowly, at last breaking the silence. "If the possessor of this letter sees fit to place it in the hands of the prosecution you will be prepared."

His words suggested that he had nothing more to say to her, but he made no movement of departure. He waited. To himself he seemed to wait a very long time. He did not look at Leslie, but he was conscious that she sat very still. She made no sound. At last it was he who spoke.

"If you have nothing more to say to me I think I'll be getting back to my office."

"What would anyone who read the letter be inclined to think that it meant?" she asked then.

"He'd know that you had told a deliberate lie," answered Mr. Joyce sharply.

"When?"

"You have stated definitely that you had had no communication with Hammond for at least three months."

"The whole thing has been a terrible shock to me. The events of that dreadful night have been a nightmare. It's not very strange if one detail has escaped my memory."

"It would be very unfortunate when your memory has reproduced so exactly every particular of your interview with Hammond, that you should have forgotten so important a point as that he came to see you in the bungalow on the night of his death at your express desire."

"I hadn't forgotten. After what happened I was afraid to mention it. I thought you'd none of you believe my story if I admitted that that he'd come at my invitation. I daresay it was stupid of me; but I lost my head, and after I'd said once that I'd had no communication with Hammond I was obliged to stick to it."

By now Leslie had recovered her admirable composure, and she met Mr. Joyce's appraising glance with candour. Her gentleness was very disarming.

"You will be required to explain, then, *why* you asked Hammond to come and see you when Robert was away for the night."

She turned her eyes full on the lawyer. He had been mistaken in thinking them insignificant, they were rather fine eyes, and unless he was mistaken they were bright now with tears. Her voice had a little break in it.

"It was a surprise I was preparing for Robert. His birthday is next month. I knew he wanted a new gun and you know I'm dreadfully stupid about sporting things. I wanted to talk to Geoff. about it. I thought I'd get him to order it for me."

"Perhaps the terms of the letter are not very clear to your recollection. Will you have another look at it?"

"No, I don't want to," she said quickly.

"Does it seem to you the sort of letter a woman would write to a somewhat distant acquaintance because she wanted to consult him about buying a gun?"

"I daresay it's rather extravagant and emotional. I do express myself like that, you know. I'm quite prepared to admit it's very silly." She smiled. "And after all, Geoff. Hammond wasn't quite a distant acquaintance. When he was ill I'd nursed him like a mother. I asked him to come when Robert was away, because Robert wouldn't have him in the house."

Mr. Joyce was tired of sitting so long in the same position. He rose and walked once or twice up and down the room, choosing the words he proposed to say; then he leaned over the back of the chair in which he had been sitting. He spoke slowly in a tone of deep gravity.

"Mrs. Crosbie, I want to talk to you very, very seriously. This case was comparatively plain sailing. There was only one point which seemed to me to require explanation: as far as I could judge, you had fired no less than four shots into Hammond when he was lying on the ground. It was hard to accept the possibility that a delicate, frightened, and habitually self-controlled woman, of gentle nurture and refined instincts, should have surrendered to an absolutely uncontrolled frenzy. But of course it was admissible. Although Geoffrey Hammond was much liked and on the whole thought highly of, I was prepared to prove that he was the sort of man who might be guilty of the crime which in justification of your act you accused him of. The fact, which was discovered after his death, that he had been living with a Chinese woman gave us something very definite to go upon. That robbed him of any sympathy which might have been felt for him. We made up our minds to make use of the odium which such a connection cast upon him in the minds of all respectable people. I told your husband this morning that I was certain of an acquittal, and I wasn't just telling him that to give him heart. I do not believe the assessors would have left the court."

They looked into one another's eyes. Mrs. Crosbie was strangely still. She was like a little bird paralyzed by the fascination of a snake. He went on in the same quiet tones.

"But this letter has thrown an entirely different complexion on the case. I am your legal adviser, I shall represent you in Court. I take your story as you tell it me, and I shall conduct your defence according to its terms. It may be that I believe your statements, and it may be that I doubt them. The duty of counsel is to persuade the Court that the evidence placed before it is not such as to justify it in bringing in a verdict of guilty, and any private opinion he may have of the guilt or innocence of his client is entirely beside the point."

He was astonished to see in Leslie's eyes the flicker of a smile. Piqued, he went on somewhat dryly.

"You're not going to deny that Hammond came to your house at your urgent, and I may even say, hysterical, invitation?"

Mrs. Crosbie, hesitating for an instant, seemed to consider.

"They can prove that the letter was taken to his bungalow by one of the house-boys. He rode over on his bicycle."

"You mustn't expect other people to be stupider than you. The letter will put them on the track of suspicions which have entered nobody's head. I will not tell you what I personally thought when I saw the copy. I do not wish you to tell me anything but what is needed to save your neck."

Mrs. Crosbie gave a shrill cry. She sprang to her feet, white with terror.

"You don't think they'd hang me?"

"If they came to the conclusion that you hadn't killed Hammond in self-defence, it would be the duty of the assessors to bring in a verdict of guilty. The charge is murder. It would be the duty of the judge to sentence you to death."

"But what can they prove?" she gasped.

"I don't know what they can prove. You know. I don't want to know. But if their suspicions are aroused, if they begin to make enquiries, if the natives are questioned—what is it that can be discovered?"

She crumpled up suddenly. She fell on the floor before he could catch her. She had fainted. He looked round the room for water, but there was none there, and he did not want to be disturbed. He stretched her out on the floor and kneeling beside her waited for her to recover. When she opened her eyes he was disconcerted by the ghastly fear that he saw in them.

"Keep quite still," he said. "You'll be better in a moment."

"You won't let them hang me," she whispered.

She began to cry, hysterically, while in undertones he sought to quieten her.

"For goodness' sake, pull yourself together," he said.

"Give me a minute."

Her courage was amazing. He could see the effort she made to regain her self-control, and soon she was once more calm.

"Let me get up now."

He gave her his hand and helped her to her feet. Taking her arm, he led her to the chair. She sat down wearily.

"Don't talk to me for a minute or two," she said.

"Very well."

When at last she spoke it was to say something which he did not expect. She gave a little sigh.

"I'm afraid I've made rather a mess of things," she said.

He did not answer, and once more there was a silence.

"Isn't it possible to get hold of the letter?" she said at last.

"I do not think anything would have been said to me about it if the person in whose possession it is was not prepared to sell it.

"Who's got it?"

"The Chinese woman who was living in Hammond's house."

A spot of colour flickered for an instant on Leslie's cheekbones.

"Does she want an awful lot for it?"

"I imagine that she has a very shrewd idea of its value. I doubt if it would be possible to get hold of it except for a very large sum."

"Are you going to let me be hanged?"

"Do you think it's so simple as all that to secure possession of an unwelcome piece of evidence? It's no different from suborning a witness. You have no right to make any such suggestion to me."

"Then what is going to happen to me?"

"Justice must take its course."

She grew very pale. A little shudder passed through her body.

"I put myself in your hands. Of course I have no right to ask you to do anything that isn't proper."

Mr. Joyce had not bargained for the little break in her voice which her habitual self-restraint made quite intolerably moving. She looked at him with humble eyes and he thought that if he rejected their appeal they would haunt him for the rest of his life. After all, nothing could bring poor Hammond back to life again. He wondered what really was the explanation of that letter. It was not fair to conclude from

it that she had killed Hammond without provocation. He had lived in the East a long time and his sense of professional honour was not perhaps so acute as it had been twenty years before. He stared at the floor. He made up his mind to do something which he knew was unjustifiable, but it stuck in his throat and he felt dully resentful towards Leslie. It embarrassed him a little to speak.

"I don't know exactly what your husband's circumstances are?"

Flushing a rosy red, she shot a swift glance at him.

"He has a good many tin shares and a small share in two or three rubber estates. I suppose he could raise money."

"He would have to be told what it was for."

She was silent for a moment. She seemed to think.

"He's in love with me still. He would make any sacrifice to save me. Is there any need for him to see the letter?"

Mr. Joyce frowned a little, and, quick to notice, she went on.

"Robert is an old friend of yours. I'm not asking you to do anything for me, I'm asking you to save a rather simple, kind man who never did you any harm from all the pain that's possible."

Mr. Joyce did not reply. He rose to go and Mrs. Crosbie, with the grace that was natural to her, held out her hand. She was shaken by the scene, and her look was haggard, but she made a brave attempt to speed him with courtesy.

"It's so good of you to take all this trouble for me. I can't begin to tell you how grateful I am."

Mr. Joyce returned to his office. He sat in his own room, quite still, attempting to do no work, and pondered. His imagination brought him many strange ideas. He shuddered a little. At last there was the discreet knock on the door which he was expecting. Ong Chi Seng came in.

"I was just going out to have my tiffin, sir," he said.

"All right."

"I didn't know if there was anything you wanted before I went, sir."

"I don't think so. Did you make another appointment for Mr. Reed?"

"Yes, sir. He will come at three o'clock."

"Good."

Ong Chi Seng turned away, walked to the door, and put his long slim fingers on the handle. Then, as though on an afterthought, he turned back.

"Is there anything you wish me to say to my fliend, sir?"

Although Ong Chi Seng spoke English so admirably he had still a difficulty with the letter r, and he pronounced it "fliend."

"What friend?"

"About the letter Mrs. Crosbie wrote to Hammond deceased, sir."

"Oh! I'd forgotten about that. I mentioned it to Mrs. Crosbie and she denies having written anything of the sort. It's evidently a forgery."

Mr. Joyce took the copy from his pocket and handed it to Ong Chi Seng. Ong Chi Seng ignored the gesture.

"In that case, sir, I suppose there would be no objection if my fliend delivered the letter to the Deputy Public Prosecutor."

"None. But I don't quite see what good that would do your friend."

"My fliend, sir, thought it was his duty in the interests of justice."

"I am the last man in the world to interfere with any one who wishes to do his duty, Chi Seng."

The eyes of the lawyer and of the Chinese clerk met. Not the shadow of a smile hovered on the lips of either, but they understood each other perfectly.

"I quite understand, sir," said Ong Chi Seng, "but from my study of the case R. v. Crosbie I am of opinion that the production of such a letter would be damaging to our client."

"I have always had a very high opinion of your legal acumen, Chi Seng."

"It has occurred to me, sir, that if I could persuade my fliend to induce the Chinese woman who has the letter to deliver it into our hands it would save a great deal of trouble."

Mr. Joyce idly drew faces on his blotting-paper.

"I suppose your friend is a business man. In what circumstances do you think he would be induced to part with the letter?"

"He has not got the letter. The Chinese woman has the letter. He is only a relation of the Chinese woman. She is an ignorant woman; she did not know the value of the letter till my friend told her."

"What value did he put on it?"

"Ten thousand dollars, sir."

"Good God! Where on earth do you suppose Mrs. Crosbie can get ten thousand dollars! I tell you the letter's a forgery."

He looked up at Ong Chi Seng as he spoke. The clerk was unmoved by the outburst. He stood at the side of the desk, civil, cool and observant.

"Mr. Crosbie owns an eighth share of the Betong Rubber Estate and a sixth share of the Selantan River Rubber Estate. I have a friend who will lend him the money on the security of his properties."

"You have a large circle of acquaintance, Chi Seng."

"Yes, sir."

"Well, you can tell them to go to hell. I would never advise Mr. Crosbie to give a penny more than five thousand for a letter that can be very easily explained."

"The Chinese woman does not want to sell the letter, sir. My friend took a long time to persuade her. It is useless to offer her less than the sum mentioned."

Mr. Joyce looked at Ong Chi Seng for at least three minutes. The clerk bore the searching scrutiny without embarrassment. He stood in a respectful attitude with downcast eyes. Mr. Joyce knew his man. Clever fellow, Chi Seng, he thought, I wonder how much he's going to get out of it.

"Ten thousand dollars is a very large sum."

"Mr. Crosbie will certainly pay it rather than see his wife hanged, sir."

Again Mr. Joyce paused. What more did Chi Seng know than he had said? He must be pretty sure of his ground if he was obviously so unwilling to bargain. That sum had been fixed because whoever it

was that was managing the affair knew it was the largest amount that Robert Crosbie could raise.

"Where is the Chinese woman now?" asked Mr. Joyce.

"She is staying at the house of my friend, sir."

"Will she come here?"

"I think it more better if you go to her, sir. I can take you to the house to-night and she will give you the letter. She is a very ignorant woman, sir, and she does not understand cheques."

"I wasn't thinking of giving her a cheque. I will bring banknotes with me."

"It would only be waste of valuable time to bring less than ten thousand dollars, sir."

"I quite understand."

"I will go and tell my friend after I have had my tiffin, sir."

"Very good. You'd better meet me outside the club at ten o'clock to-night."

"With pleasure, sir," said Ong Chi Seng.

He gave Mr. Joyce a little bow and left the room. Mr. Joyce went out to have luncheon too. He went to the club and here, as he had expected, he saw Robert Crosbie. He was sitting at a crowded table, and as he passed him, looking for a place, Mr. Joyce touched him on the shoulder.

"I'd like a word or two with you before you go," he said.

"Right you are. Let me know when you're ready."

Mr. Joyce had made up his mind how to tackle him. He played a rubber of bridge after luncheon in order to allow time for the club to empty itself. He did not want on this particular matter to see Crosbie in his office. Presently Crosbie came in to the card-room and looked on till the game was finished. The other players went on their various affairs, and the two were left alone.

"A rather unfortunate thing has happened, old man," said Mr. Joyce, in a tone which he sought to render as casual as possible. "It appears that your wife sent a letter to Hammond asking him to come to the bungalow on the night he was killed."

"But that's impossible," cried Crosbie. "She's always stated that she had had no communication with Hammond. I know from my own knowledge that she hadn't set eyes on him for a couple of months."

"The fact remains that the letter exists. It's in the possession of the Chinese woman Hammond was living with. Your wife meant to give you a present on your birthday, and she wanted Hammond to help her to get it. In the emotional excitement that she suffered from after the tragedy, she forgot all about it, and having once denied having any communication with Hammond, she was afraid to say that she had made a mistake. It was of course very unfortunate, but I daresay it was not unnatural."

Crosbie did not speak. His large, red face bore an expression of complete bewilderment, and Mr. Joyce was at once relieved and exasperated by his lack of comprehension. He was a stupid man, and Mr. Joyce had no patience with stupidity. But his distress since the catastrophe had touched a soft spot in the lawyer's heart; and Mrs. Crosbie had struck the right note when she asked him to help her, not for her sake, but for her husband's.

"I need not tell you that it would be very awkward if this letter found its way into the hands of the prosecution. Your wife has lied, and she would be asked to explain the lie. It alters things a little if Hammond did not intrude, an unwanted guest, but came to your house by invitation. It would be easy to arouse in the assessors a certain indecision of mind."

Mr. Joyce hesitated. He was face to face now with his decision. If it had been a time for humour, he could have smiled at the reflection that he was taking so grave a step, and that the man for whom he was taking it had not the smallest conception of its gravity. If he gave the matter a thought, he probably imagined that what Mr. Joyce was doing was what any lawyer did in the ordinary run of business.

"My dear Robert, you are not only my client, but my friend. I think we must get hold of that letter. It'll cost a good deal of money. Except for that I should have preferred to say nothing to you about it."

"How much?"

"Ten thousand dollars."

"That's a devil of a lot. With the slump and one thing and another it'll take just about all I've got."

"Can you get it at once?"

"I suppose so. Old Charlie Meadows will let me have it on my tin shares and on those two estates I'm interested in."

"Then will you?"

"Is it absolutely necessary?"

"If you want your wife to be acquitted."

Crosbie grew very red. His mouth sagged strangely.

"But . . ." He could not find words, his face now was purple. "But I don't understand. She can explain. You don't mean to say they'd find her guilty? They couldn't hang her for putting a noxious vermin out of the way."

"Of course they wouldn't hang her. They might only find her guilty of manslaughter. She'd probably get off with two or three years."

Crosbie started to his feet and his red face was distraught with horror.

"Three years."

Then something seemed to dawn in that slow intelligence of his. His mind was darkness across which shot suddenly a flash of lightning, and though the succeeding darkness was as profound, there remained the memory of something not seen but perhaps just descried. Mr. Joyce saw that Crosbie's big red hands, coarse and hard with all the odd jobs he had set them to, trembled.

"What was the present she wanted to make me?"

"She says she wanted to give you a new gun."

Once more that great red face flushed a deeper red.

"When have you got to have the money ready?"

There was something odd in his voice now. It sounded as though he spoke with invisible hands clutching at his throat.

"At ten o'clock to-night. I thought you could bring it to my office at about six."

"Is the woman coming to you?"

"No, I'm going to her."

"I'll bring the money. I'll come with you."

Mr. Joyce looked at him sharply.

"Do you think there's any need for you to do that? I think it would be better if you left me to deal with this matter by myself."

"It's my money, isn't it? I'm going to come."

Mr. Joyce shrugged his shoulders. They rose and shook hands. Mr. Joyce looked at him curiously.

At ten o'clock they met in the empty club.

"Everything all right?" asked Mr. Joyce.

"Yes. I've got the money in my pocket."

"Let's go then."

They walked down the steps. Mr. Joyce's car was waiting for them in the square, silent at that hour, and as they came to it Ong Chi Seng stepped out of the shadow of a house. He took his seat beside the driver and gave him a direction. They drove past the Hotel de l'Europe and turned up by the Sailors' Home to get into Victoria Street. Here the Chinese shops were open still, idlers lounged about, and in the roadway rickshaws and motor-cars and gharries gave a busy air to the scene. Suddenly their car stopped and Chi Seng turned round.

"I think it more better if we walk here, sir," he said.

They got out and he went on. They followed a step or two behind. Then he asked them to stop.

"You wait here, sir. I go in and speak to my fliend."

He went into a shop, open to the street, where three or four Chinese were standing behind the counter. It was one of those strange shops where nothing was on view and you wondered what it was they sold there. They saw him address a stout man in a duck suit with a large gold chain across his breast and the man shot a quick glance out into the night. He gave Chi Seng a key and Chi Seng came out. He beckoned to the two men waiting and slid into a doorway at the side of the shop. They followed him and found themselves at the foot of a flight of stairs.

"If you wait a minute I will light a match," he said, always resourceful. "You come upstairs, please."

He held a Japanese match in front of them, but it scarcely dispelled the darkness and they groped their way up behind him. On the first floor he unlocked a door and going in lit a gas-jet.

"Come in, please," he said.

It was a small square room, with one window, and the only furniture consisted of two low Chinese beds covered with matting. In one corner was a large chest, with an elaborate lock, and on this stood a shabby tray with an opium pipe on it and a lamp. There was in the room the faint, acrid scent of the drug. They sat down and Ong Chi Seng offered them cigarettes. In a moment the door was opened by the fat Chinaman whom they had seen behind the counter. He bade them good evening in very good English and sat down by the side of his fellow-countryman.

"The Chinese woman is just coming," said Chi Seng.

A boy from the shop brought in a tray with a tea-pot and cups and the Chinaman offered them a cup of tea. Crosbie refused. The Chinese talked to one another in undertones, but Crosbie and Mr. Joyce were silent. At last there was the sound of a voice outside; some one was calling in a low tone; and the Chinaman went to the door. He opened it, spoke a few words, and ushered a woman in. Mr. Joyce looked at her. He had heard much about her since Hammond's death, but he had never seen her. She was a stoutish person, not very young, with a broad, phlegmatic face. She was powdered and rouged and her eyebrows were a thin black line, but she gave you the impression of a woman of character. She wore a pale blue jacket and a white skirt, her costume was not quite European nor quite Chinese, but on her feet were little Chinese silk slippers. She wore heavy gold chains round her neck, gold bangles on her wrists, gold ear-rings and elaborate gold pins in her black hair. She walked in slowly, with the air of a woman sure of herself, but with a certain heaviness of tread, and sat down on the bed beside Ong Chi Seng. He said something to her and nodding she gave an incurious glance at the two white men.

"Has she got the letter?" asked Mr. Joyce.

"Yes, sir."

Crosbie said nothing, but produced a roll of five-hundred-dollar notes. He counted out twenty and handed them to Chi Seng.

"Will you see if that is correct?"

The clerk counted them and gave them to the fat Chinaman.

"Quite correct, sir."

The Chinaman counted them once more and put them in his pocket. He spoke again to the woman and she drew from her bosom a letter. She gave it to Chi Seng who cast his eyes over it.

"This is the right document, sir," he said, and was about to give it to Mr. Joyce when Crosbie took it from him.

"Let me look at it," he said.

Mr. Joyce watched him read and then held out his hand for it.

"You'd better let me have it."

Crosbie folded it up deliberately and put it in his pocket.

"No, I'm going to keep it myself. It's cost me enough money."

Mr. Joyce made no rejoinder. The three Chinese watched the little passage, but what they thought about it, or whether they thought, it was impossible to tell from their impassive countenances. Mr. Joyce rose to his feet.

"Do you want me any more to-night, sir?" said Ong Chi Seng.

"No." He knew that the clerk wished to stay behind in order to get his agreed share of the money, and he turned to Crosbie. "Are you ready?"

Crosbie did not answer, but stood up. The Chinaman went to the door and opened it for them. Chi Seng found a bit of candle and lit it in order to light them down, and the two Chinese accompanied them to the street. They left the woman sitting quietly on the bed smoking a cigarette. When they reached the street the Chinese left them and went once more upstairs.

"What are you going to do with that letter?" asked Mr. Joyce.

"Keep it."

They walked to where the car was waiting for them and here Mr. Joyce offered his friend a lift. Crosbie shook his head.

"I'm going to walk." He hesitated a little and shuffled his feet. "I went to Singapore on the night of Hammond's death partly to buy a new gun that a man I knew wanted to dispose of. Good-night."

He disappeared quickly into the darkness.

Mr. Joyce was quite right about the trial. The assessors went into court fully determined to acquit Mrs. Crosbie. She gave evidence on her own behalf. She told her story simply and with straightforwardness. The D.P.P. was a kindly man and it was plain that he took no great pleasure in his task. He asked the necessary questions in a deprecating manner. His speech for the prosecution might really have been a speech for the defence, and the assessors took less than five minutes to consider their popular verdict. It was impossible to prevent the great outburst of applause with which it was received by the crowd that packed the court-house. The judge congratulated Mrs. Crosbie and she was a free woman.

No one had expressed a more violent disapprobation of Hammond's behaviour than Mrs. Joyce; she was a woman loyal to her friends and she had insisted on the Crosbies staying with her after the trial, for she in common with every one else had no doubt of the result, till they could make arrangements to go away. It was out of the question for poor, dear, brave Leslie to return to the bungalow at which the horrible catastrophe had taken place. The trial was over by half-past twelve and when they reached the Joyces' house a grand luncheon was awaiting them. Cocktails were ready, Mrs. Joyce's million-dollar cocktail was celebrated through all the Malay States, and Mrs. Joyce drank Leslie's health. She was a talkative, vivacious woman, and now she was in the highest spirits. It was fortunate, for the rest of them were silent. She did not wonder, her husband never had much to say, and the other two were naturally exhausted from the long strain to which they had been subjected. During luncheon she carried on a bright and spirited monologue. Then coffee was served.

"Now, children," she said in her gay, bustling fashion, "you must have a rest and after tea I shall take you both for a drive to the sea."

Mr. Joyce, who lunched at home only by exception, had of course to go back to his office.

"I'm afraid I can't do that, Mrs. Joyce," said Crosbie. "I've got to get back to the estate at once."

"Not to-day?" she cried.

"Yes, now. I've neglected it for too long and I have urgent business. But I shall be very grateful if you will keep Leslie until we have decided what to do."

Mrs. Joyce was about to expostulate, but her husband prevented her.

"If he must go, he must, and there's an end of it."

There was something in the lawyer's tone which made her look at him quickly. She held her tongue and there was a moment's silence. Then Crosbie spoke again.

"If you'll forgive me, I'll start at once so that I can get there before dark." He rose from the table. "Will you come and see me off, Leslie?"

"Of course."

They went out of the dining-room together.

"I think that's rather inconsiderate of him," said Mrs. Joyce. "He must know that Leslie wants to be with him just now."

"I'm sure he wouldn't go if it wasn't absolutely necessary."

"Well, I'll just see that Leslie's room is ready for her. She wants a complete rest, of course, and then amusement."

Mrs. Joyce left the room and Joyce sat down again. In a short time he heard Crosbie start the engine of his motorcycle and then noisily scrunch over the gravel of the garden path. He got up and went into the drawing-room. Mrs. Crosbie was standing in the middle of it, looking into space, and in her hand was an open letter. He recognized it. She gave him a glance as he came in and he saw that she was deathly pale.

"He knows," she whispered.

Mr. Joyce went up to her and took the letter from her hand. He lit a match and set the paper afire. She watched it burn. When he could hold it no longer he dropped it on the tiled floor and they both looked at the paper curl and blacken. Then he trod it into ashes with his foot.

"What does he know?"

She gave him a long, long stare and into her eyes came a strange look. Was it contempt or despair? Mr. Joyce could not tell.

"He knows that Geoff. was my lover."

Mr. Joyce made no movement and uttered no sound.

"He'd been my lover for years. He became my lover almost immediately after he came back from the war. We knew how careful we must be. When we became lovers I pretended I was tired of him, and he seldom came to the house when Robert was there. I used to drive out to a place we knew and he met me, two or three times a week, and when Robert went to Singapore he used to come to the bungalow late, when the boys had gone for the night. We saw one another constantly, all the time, and not a soul had the smallest suspicion of it. And then lately, a year ago, he began to change. I didn't know what was the matter. I couldn't believe that he didn't care for me any more. He always denied it. I was frantic. I made him scenes. Sometimes I thought he hated me. Oh, if you knew what agonies I endured. I passed through hell. I knew he didn't want me any more and I wouldn't let him go. Misery! Misery! I loved him. I'd given him everything. He was all my life. And then I heard he was living with a Chinese woman. I couldn't believe it. I wouldn't believe it. At last I saw her, I saw her with my own eyes, walking in the village, with her gold bracelets and her necklaces, an old, fat, Chinese woman. She was older than I was. Horrible! They all knew in the kampong that she was his mistress. And when I passed her, she looked at me and I knew that she knew I was his mistress too. I sent for him. I told him I must see him. You've read the letter. I was mad to write it. I didn't know what I was doing. I didn't care. I hadn't seen him for ten days. It was a lifetime. And when last we'd parted he took me in his arms and kissed me and told me not to worry. And he went straight from my arms to hers."

She had been speaking in a low voice, vehemently, and now she stopped and wrung her hands.

"That damned letter. We'd always been so careful. He always tore up any word I wrote to him the moment he'd read it. How was I to know he'd leave that one? He came and I told him I knew about the Chinawoman. He denied it. He said it was only scandal. I was beside myself. I don't know what I said to him. Oh, I hated him then. I tore him limb from limb. I said everything I could to wound

him. I insulted him. I could have spat in his face. And at last he turned on me. He told me he was sick and tired of me and never wanted to see me again. He said I bored him to death. And then he acknowledged that it was true about the Chinawoman. He said he'd known her for years, before the war, and she was the only woman who really meant anything to him, and the rest was just pastime. And he said he was glad I knew, and now at last I'd leave him alone. And then I don't know what happened. I was beside myself, I saw red. I seized the revolver and I fired. He gave a cry and I saw I'd hit him. He staggered and rushed for the verandah. I ran after him and fired again. He fell, and then I stood over him and I fired and fired till the revolver went click, click, and I knew there were no more cartridges."

At last she stopped, panting. Her face was no longer human, it was distorted with cruelty, and rage and pain. You would never have thought that this quiet, refined woman was capable of such a fiendish passion. Mr. Joyce took a step backwards. He was absolutely aghast at the sight of her. It was not a face, it was a gibbering, hideous mask. Then they heard a voice calling from another room, a loud, friendly, cheerful voice. It was Mrs. Joyce.

"Come along, Leslie darling, your room's ready. You must be dropping with sleep."

Mrs. Crosbie's features gradually composed themselves. Those passions, so clearly delineated, were smoothed away as with your hand you would smooth a crumpled paper, and in a minute the face was cool and calm and unlined. She was a trifle pale, but her lips broke into a pleasant, affable smile. She was once more the well-bred and even distinguished woman.

"I'm coming, Dorothy dear. I'm sorry to give you so much trouble."

LEO N. TOLSTOY

GOD SEES THE TRUTH
BUT WAITS

Count Tolstoy, the Russian nobleman whose life span (1828–1910) coincided with the last decades of the Czarist regime, has won international acclaim as philosopher and writer. Prominent among his literary creations are his enduring novels, *War And Peace* and *Anna Karenina*. No less famous, however, are some of his short stories, such as *The Kreutzer Sonata*, *Master And Man*, and the great piece of legal fiction that follows. It presents the dramatic story of the conviction of an innocent, not due to any unfairness in the law or procedure, but mainly because of a web of circumstantial evidence woven around the victim by the actual perpetrator of the crime.

IN THE TOWN of Vladimir lived a young merchant named Ivan Dmitrich Aksionov. He had two shops and a house of his own.

Aksionov was a handsome, fair-haired, curly-headed fellow, full of fun, and very fond of singing. When quite a young man he had been given to drink, and was riotous when he had had too much; but after he married he gave up drinking, except now and then.

One summer Aksionov was going to the Nizhny Fair, and as he bade good-bye to his family, his wife said to him, "Ivan Dmitrich, do not start to-day; I have had a bad dream about you."

Aksionov laughed, and said, "You are afraid that when I get to the fair I shall go on a spree."

His wife replied: "I do not know what I am afraid of; all I know is that I had a bad dream. I dreamt you returned from the town, and when you took off your cap I saw that your hair was quite grey."

Aksionov laughed. "That's a lucky sign," said he. "See if I don't sell out all my goods, and bring you some presents from the fair."

So he said good-bye to his family, and drove away.

When he had travelled half-way, he met a merchant whom he knew, and they put up at the same inn for the night. They had some tea together, and then went to bed in adjoining rooms.

It was not Aksionov's habit to sleep late, and, wishing to travel while it was still cool, he aroused his driver before dawn, and told him to put in the horses.

Then he made his way across to the landlord of the inn (who lived in a cottage at the back), paid his bill, and continued his journey.

When he had gone about twenty-five miles, he stopped for the horses to be fed. Aksionov rested awhile in the passage of the inn, then he stepped out into the porch, and, ordering a samovar to be heated, got out his guitar and began to play.

Suddenly a troika drove up with tinkling bells and an official alighted, followed by two soldiers. He came to Aksionov and began to question him, asking him who he was and whence he came. Aksionov answered him fully, and said, "Won't you have some tea with me?" But the official went on cross-questioning him and asking him, "Where did you spend last night? Were you alone, or with a fellow-merchant? Did you see the other merchant this morning? Why did you leave the inn before dawn?"

Aksionov wondered why he was asked all these questions, but he described all that had happened, and then added, "Why do you cross-question me as if I were a thief or a robber? I am travelling on business of my own, and there is no need to question me."

Then the official, calling the soldiers, said, "I am the police-officer of this district, and I question you because the merchant with whom you spent last night has been found with his throat cut. We must search your things."

They entered the house. The soldiers and the police-officer unstrapped Aksionov's luggage and searched it. Suddenly the officer drew a knife out of a bag, crying, "Whose knife is this?"

Aksionov looked, and seeing a blood-stained knife taken from his bag, he was frightened.

"How is it there is blood on this knife?"

Aksionov tried to answer, but could hardly utter a word, and only stammered: "I—don't know—not mine."

Then the police-officer said: "This morning the merchant was found in bed with his throat cut. You are the only person who could have done it. The house was locked from inside, and no one else was there. Here is this blood-stained knife in your bag, and your face and manner betray you! Tell me how you killed him, and how much money you stole?"

Aksionov swore he had not done it; that he had not seen the merchant after they had had tea together; that he had no money except eight

thousand rubles of his own, and that the knife was not his. But his voice was broken, his face pale, and he trembled with fear as though he were guilty.

The police-officer ordered the soldiers to bind Aksionov and to put him in the cart. As they tied his feet together and flung him into the cart, Aksionov crossed himself and wept. His money and goods were taken from him, and he was sent to the nearest town and imprisoned there. Enquiries as to his character were made in Vladimir. The merchants and other inhabitants of that town said that in former days he used to drink and waste his time, but that he was a good man. Then the trial came on: he was charged with murdering a merchant from Ryazan, and robbing him of twenty thousand rubles.

His wife was in despair, and did not know what to believe. Her children were all quite small; one was a baby at her breast. Taking them all with her, she went to the town where her husband was in jail. At first she was not allowed to see him; but after much begging, she obtained permission from the officials, and was taken to him. When she saw her husband in prison-dress and in chains, shut up with thieves and criminals, she fell down, and did not come to her senses for a long time. Then she drew her children to her, and sat down near him. She told him of things at home, and asked about what had happened to him. He told her all, and she asked, "What can we do now?"

"We must petition the Czar not to let an innocent man perish."

His wife told him that she had sent a petition to the Czar, but it had not been accepted.

Aksionov did not reply, but only looked downcast.

Then his wife said, "It was not for nothing I dreamt your hair had turned grey. You remember? You should not have started that day." And passing her fingers through his hair, she said: "Vanya dearest, tell your wife the truth; was it not you who did it?"

"So you, too, suspect me!" said Aksionov, and, hiding his face in his hands, he began to weep. Then a soldier came to say that the wife and children must go away; and Aksionov said good-bye to his family for the last time.

When they were gone, Aksionov recalled what had been said, and when he remembered that his wife also had suspected him, he said to himself, "It seems that only God can know the truth; it is to Him alone we must appeal, and from Him alone expect mercy."

And Aksionov wrote no more petitions; gave up all hope, and only prayed to God.

Aksionov was condemned to be flogged and sent to the mines. So he was flogged with a knot, and when the wounds made by the knot were healed, he was driven to Siberia with other convicts.

For twenty-six years Aksionov lived as a convict in Siberia. His hair turned white as snow, and his beard grew long, thin, and grey. All his mirth went; he stooped; he walked slowly, spoke little, and never laughed, but he often prayed.

In prison Aksionov learnt to make boots, and earned a little money, with which he bought *The Lives of the Saints*. He read this book when there was light enough in the prison; and on Sundays in the prison-church he read the lessons and sang in the choir; for his voice was still good.

The prison authorities liked Aksionov for his meekness, and his fellow-prisoners respected him: they called him "Grandfather," and "The Saint." When they wanted to petition the prison authorities about anything, they always made Aksionov their spokesman, and when there were quarrels among the prisoners they came to him to put things right, and to judge the matter.

No news reached Aksionov from his home, and he did not even know if his wife and children were still alive.

One day a fresh gang of convicts came to the prison. In the evening the old prisoners collected round the new ones and asked them what towns or villages they came from, and what they were sentenced for. Among the rest Aksionov sat down near the newcomers, and listened with downcast air to what was said.

One of the new convicts, a tall, strong man of sixty, with a closely-cropped grey beard, was telling the others what he had been arrested for.

"Well, friends," he said, "I only took a horse that was tied to a sledge, and I was arrested and accused of stealing. I said I had only

taken it to get home quicker, and had then let it go; besides, the driver was a personal friend of mine. So I said, 'It's all right.' 'No,' said they, 'you stole it.' But how or where I stole it they could not say. I once really did something wrong, and ought by rights to have come here long ago, but that time I was not found out. Now I have been sent here for nothing at all. . . . Eh, but it's lies I'm telling you; I've been to Siberia before, but I did not stay long."

"Where are you from?" asked some one.

"From Vladimir. My family are of that town. My name is Makar, and they also call me Semyonich."

Aksionov raised his head and said: "Tell me, Semyonich, do you know anything of the merchants Aksionov of Vladimir? Are they still alive?"

"Know them? Of course I do. The Aksionovs are rich, though their father is in Siberia: a sinner like ourselves, it seems! As for you, Granddad, how did you come here?"

Aksionov did not like to speak of his misfortune. He only sighed, and said, "For my sins I have been in prison these twenty-six years."

"What sins?" asked Makar Semyonich.

But Aksionov only said, "Well, well—I must have deserved it!" He would have said no more, but his companions told the newcomers how Aksionov came to be in Siberia; how some one had killed a merchant, and had put the knife among Aksionov's things, and Aksionov had been unjustly condemned.

When Makar Semyonich heard this, he looked at Aksionov, slapped his own knee, and exclaimed, "Well, this is wonderful! Really wonderful! But how old you've grown, Gran'dad!"

The others asked him why he was so surprised, and where he had seen Aksionov before; but Makar Semyonich did not reply. He only said: "It's wonderful that we should meet here, lads!"

These words made Aksionov wonder whether this man knew who had killed the merchant; so he said, "Perhaps, Semyonich, you have heard of that affair, or maybe you've seen me before?"

"How could I help hearing? The world's full of rumours. But it's a long time ago, and I've forgotten what I heard."

"Perhaps you heard who killed the merchant?" asked Aksionov.

Makar Semyonich laughed, and replied: "It must have been him in whose bag the knife was found! If some one else hid the knife there, 'He's not a thief till he's caught,' as the saying is. How could any one put a knife into your bag while it was under your head? It would surely have woke you up."

When Aksionov heard these words, he felt sure this was the man who had killed the merchant. He rose and went away. All that night Aksionov lay awake. He felt terribly unhappy, and all sorts of images rose in his mind. There was the image of his wife as she was when he parted from her to go to the fair. He saw her as if she were present; her face and her eyes rose before him; he heard her speak and laugh. Then he saw his children, quite little, as they were at that time: one with a little cloak on, another at his mother's breast. And then he remembered himself as he used to be—young and merry. He remembered how he sat playing the guitar in the porch of the inn where he was arrested, and how free from care he had been. He saw, in his mind, the place where he was flogged, the executioner, and the people standing around; the chains, the convicts, all the twenty-six years of his prison life, and his premature old age. The thought of it all made him so wretched that he was ready to kill himself.

"And it's all that villain's doing!" thought Aksionov. And his anger was so great against Makar Semyonich that he longed for vengeance, even if he himself should perish for it. He kept repeating prayers all night, but could get no peace. During the day he did not go near Makar Semyonich, nor even look at him.

A fortnight passed in this way. Aksionov could not sleep at night, and was so miserable that he did not know what to do.

One night as he was walking about the prison he noticed some earth that came rolling out from under one of the shelves on which the prisoners slept. He stopped to see what it was. Suddenly Makar Semyonich crept out from under the shelf, and looked up at Aksionov with frightened face. Aksionov tried to pass without looking at him, but Makar seized his hand and told him that he had dug a hole under the wall, getting rid of the earth by putting it into his high-boots, and emptying it out every day on the road when the prisoners were driven to their work.

"Just you keep quiet, old man, and you shall get out too. If you blab, they'll flog the life out of me, but I will kill you first."

Aksionov trembled with anger as he looked at his enemy. He drew his hand away, saying, "I have no wish to escape, and you have no need to kill me; you killed me long ago! As to telling of you—I may do so or not, as God shall direct."

Next day, when the convicts were led out to work, the convoy soldiers noticed that one or other of the prisoners emptied some earth out of his boots. The prison was searched and the tunnel found. The Governor came and questioned all the prisoners to find out who had dug the hole. They all denied any knowledge of it. Those who knew would not betray Makar Semyonich, knowing he would be flogged almost to death. At last the Governor turned to Aksionov whom he knew to be a just man, and said:

"You are a truthful old man; tell me, before God, who dug the hole?"

Makar Semyonich stood as if he were quite unconcerned, looking at the Governor and not so much as glancing at Aksionov. Aksionov's lips and hands trembled, and for a long time he could not utter a word. He thought, "Why should I screen him who ruined my life? Let him pay for what I have suffered. But if I tell, they will probably flog the life out of him, and maybe I suspect him wrongly. And, after all, what good would it be to me?"

"Well, old man," repeated the Governor, "tell me the truth: who has been digging under the wall?"

Aksionov glanced at Makar Semyonich, and said, "I cannot say, your honour. It is not God's will that I should tell! Do what you like with me; I am in your hands."

However much the Governor tried, Aksionov would say no more, and so the matter had to be left.

That night, when Aksionov was lying on his bed and just beginning to doze, some one came quietly and sat down on his bed. He peered through the darkness and recognised Makar.

"What more do you want of me?" asked Aksionov. "Why have you come here?"

Makar Semyonich was silent. So Aksionov sat up and said, "What do you want? Go away, or I will call the guard!"

Makar Semyonich bent close over Aksionov, and whispered, "Ivan Dmitrich, forgive me!"

"What for?" asked Aksionov.

"It was I who killed the merchant and hid the knife among your things. I meant to kill you too, but I heard a noise outside, so I hid the knife in your bag and escaped out of the window."

Aksionov was silent, and did not know what to say. Makar Semyonich slid off the bed-shelf and knelt upon the ground. "Ivan Dmitrich," said he, "forgive me! For the love of God, forgive me! I will confess that it was I who killed the merchant, and you will be released and can go to your home."

"It is easy for you to talk," said Aksionov, "but I have suffered for you these twenty-six years. Where could I go to now? . . . My wife is dead, and my children have forgotten me. I have nowhere to go. . . ."

Makar Semyonich did not rise, but beat his head on the floor. "Ivan Dmitrich, forgive me!" he cried. "When they flogged me with the knot it was not so hard to bear as it is to see you now . . . yet you had pity on me, and did not tell. For Christ's sake forgive me, wretch that I am!" And he began to sob.

When Aksionov heard him sobbing he, too, began to weep.

"God will forgive you!" said he. "Maybe I am a hundred times worse than you." And at these words his heart grew light, and the longing for home left him. He no longer had any desire to leave the prison, but only hoped for his last hour to come.

In spite of what Aksionov had said, Makar Semyonich confessed his guilt. But when the order for his release came, Aksionov was already dead.

ANATOLE FRANCE

CRAINQUEBILLE

This moving story by the celebrated French author whose pen name was Anatole France (1844–1924) was, after its publication in the form presented here, written by him as a drama in which is spoken the now famous line, “The law, in its majestic equality, forbids the rich as well as the poor to sleep under bridges.” *Crainquebille* is indeed a social parody, satirizing the gap between the ideal of equality before the law and what sometimes poses as such in the reality of life. This story is recognized throughout the civilized world as one of the great masterpieces on the denial of justice to the poor and ignorant.

I

IN EVERY sentence pronounced by a judge in the name of the sovereign people, dwells the whole majesty of justice. The august character of that justice was brought home to Jérôme Crainquebille, costermonger, when, accused of having insulted a policeman, he appeared in the police court. Having taken his place in the dock, he beheld in the imposing somber hall magistrates, clerks, lawyers in their robes, the usher wearing his chains, *gendarmes*, and, behind a rail, the bare heads of the silent spectators. He, himself, occupied a raised seat, as if some sinister honor were conferred on the accused by his appearance before the magistrate. At the end of the hall, between two assessors, sat President Bourriche. The palm-leaves of an officer of the Academy decorated his breast. Over the tribune were a bust representing the Republic and a crucifix, as if to indicate that all laws divine and human were suspended over Crainquebille's head. Such symbols naturally inspired him with terror. Not being gifted with a philosophic mind, he did not inquire the meaning of the bust and the crucifix; he did not ask how far Jesus and the symbolical bust harmonized in the Law Courts. Nevertheless, here was matter for reflection; for, after all, pontifical teaching and canon law are in many points opposed to the constitution of the Republic and to the civil code. So far as we know the Decretals have not been abolished. Today, as formerly, the Church of Christ teaches that only those powers are lawful to which it has given its sanction. Now the French Republic claims to be independent of pontifical power. Crainquebille might reasonably say:

‘Gentlemen and magistrates, insomuch as President Loubet has not been anointed, the Christ, whose image is suspended over your heads, repudiates you through the voice of councils and of Popes. Either he is here to remind you of the rights of the Church, which invalidate yours, or His presence has no rational signification.’

Whereupon President Bourriche might reply:

‘Prisoner Crainquebille, the kings of France have always quarrelled with the Pope. Guillaume de Nogaret was excommunicated, but for so trifling a reason he did not resign his office. The Christ of the tribune is not the Christ of Gregory VII or of Boniface VIII. He is, if you will, the Christ of the Gospels, who knew not one word of canon law, and had never heard of the holy Decretals.’

Then Crainquebille might not without reason have answered:

‘The Christ of the Gospels was an agitator. Moreover, he was the victim of a sentence, which for nineteen hundred years all Christian peoples have regarded as a grave judicial error. I defy you, Monsieur le Président, to condemn me in His name to so much as forty-eight hours’ imprisonment.’

But Crainquebille did not indulge in any considerations either historical, political or social. He was wrapped in amazement. All the ceremonial, with which he was surrounded, impressed him with a very lofty idea of justice. Filled with reverence, overcome with terror, he was ready to submit to his judges in the matter of his guilt. In his own conscience he was convinced of his innocence; but he felt how insignificant is the conscience of a costermonger in the face of the panoply of the law, and the ministers of public prosecution. Already his lawyer had half persuaded him that he was not innocent.

A summary and hasty examination had brought out the charges under which he labored.

II. Crainquebille’s Misadventure

Up and down the town went Jérôme Crainquebille, costermonger, pushing his barrow before him and crying: ‘Cabbages! Turnips! Carrots!’ When he had leeks he cried: ‘Asparagus!’ For leeks are the asparagus of the poor. Now it happened that on October 20, at noon, as he was going down the Rue Montmartre, there came out of her shop

the shoemaker's wife, Madame Bayard. She went up to Crainquebille's barrow and scornfully taking up a bundle of leeks, she said:

'I don't think much of your leeks. What do you want a bundle?'

'Sevenpence halfpenny, mum, and the best in the market!'

'Sevenpence halfpenny for three wretched leeks?'

And disdainfully she cast the leeks back into the barrow.

Then it was that Constable 64 came and said to Crainquebille:

'Move on.'

Moving on was what Crainquebille had been doing from morning till evening for fifty years. Such an order seemed right to him, and perfectly in accordance with the nature of things. Quite prepared to obey, he urged his customer to take what she wanted.

'You must give me time to choose,' she retorted sharply.

Then she felt all the bundles of leeks over again. Finally, she selected the one she thought the best, and held it clasped to her bosom as saints in church pictures hold the palm of victory.

'I will give you sevenpence. That's quite enough; and I'll have to fetch it from the shop, for I haven't anything on me.'

Still embracing the leeks, she went back into the shop, whither she had been preceded by a customer carrying a child.

Just at this moment Constable 64 said to Crainquebille for the second time:

'Move on.'

'I'm waiting for my money,' replied Crainquebille.

'And I'm not telling you to wait for your money; I'm telling you to move on,' retorted the constable grimly.

Meanwhile, the shoemaker's wife in her shop was fitting blue slippers on to a child of eighteen months, whose mother was in a hurry. And the green heads of the leeks were lying on the counter.

For the half-century that he had been pushing his barrow through the streets, Crainquebille had been learning respect for authority. But now his position was a peculiar one: he was torn asunder between what was

his due and what was his duty. His was not a judicial mind. He failed to understand that the possession of an individual's right in no way exonerated him from the performance of a social duty. He attached too great importance to his claim to receive sevenpence, and too little to the duty of pushing his barrow and moving on, forever moving on. He stood still.

For the third time Constable 64 quietly and calmly ordered him to move on. Unlike Inspector Montauciel, whose habit it is to threaten constantly but never to take proceedings, Constable 64 is slow to threaten and quick to act. Such is his character. Though somewhat sly he is an excellent servant and a loyal soldier. He is as brave as a lion and as gentle as a child. He knows naught save his official instructions.

'Don't you understand when I tell you to move on?'

To Crainquebille's mind his reason for standing still was too weighty for him not to consider it sufficient. Wherefore, artlessly and simply, he explained it:

'Good Lord! Don't I tell you that I am waiting for my money?'

Constable 64 merely replied:

'Do you want me to summons you? If you do, you have only to say so.'

At these words Crainquebille slowly shrugged his shoulders, looked sadly at the constable, and then raised his eyes to heaven, as if he would say:

'I call God to witness! Am I a law-breaker? Am I one to make light of the by-laws and ordinances which regulate my ambulatory calling? At five o'clock in the morning I was at the market. Since seven, pushing my barrow and wearing my hands to the bone, I have been crying: "Cabbages! Turnips! Carrots!" I am turned sixty. I am worn out. And you ask me whether I have raised the black flag of rebellion. You are mocking me and your joking is cruel!'

Either because he failed to notice the expression on Crainquebille's face, or because he considered it no excuse for disobedience, the constable inquired curtly and roughly whether he had been understood.

Now, just at that moment the block of traffic in the Rue Montmartre was at its worst. Carriages, drays, carts, omnibuses, trucks, jammed one against the other, seemed indissolubly welded together. From their quivering immobility proceeded shouts and oaths. Cabmen and butchers' boys grandiloquent and drawling insulted one another from a distance, and omnibus conductors, regarding Crainquebille as the cause of the block, called him 'a dirty leek.'

Meanwhile, on the pavement the curious were crowding round to listen to the dispute. Then the constable, finding himself the center of attention, began to think it time to display his authority.

'Very well,' he said, taking a stumpy pencil and a greasy notebook from his pocket.

Crainquebille persisted in his idea, obedient to a force within. Besides, it was now impossible for him either to move or to draw back. The wheel of his barrow was unfortunately caught in that of a milkman's cart.

Tearing his hair beneath his cap he cried:

'But don't I tell you I'm waiting for my money! Here's a fix; *Misere de misere! Bon sang de bon sang!*'

By these words, expressive rather of despair than of rebellion, Constable 64 considered he had been insulted. And, because to his mind all insults must necessarily take the consecrated, regular, traditional, liturgical, ritual form so to speak of *Mort aux vaches*,* thus the offender's words were heard and understood by the constable.

'Ah! You said: *Mort aux vaches!* Very good. Come along.'

Stupefied with amazement and distress, Crainquebille opened his great rheumy eyes and gazed at Constable 64. With a broken voice proceeding now from the top of his head and now from the heels of his boots, he cried, with his arms folded over his blue blouse:

'I said "*Mort aux vaches?*" I? . . . Oh!'

The tradesmen and errand boys hailed the arrest with laughter. It gratified the taste of all crowds for violent and ignoble spectacles. But

* It is impossible to translate this expression. As explained later, it means 'down with spies,' the word spies being used to indicate the police.

there was one serious person who was pushing his way through the throng; he was a sad-looking old man, dressed in black, wearing a high hat; he went up to the constable and said to him in a low voice very gently and firmly:

‘You are mistaken. This man did not insult you.’

‘Mind your own business,’ replied the policeman, but without threatening, for he was speaking to a man who was well dressed.

The old man insisted calmly and tenaciously. And the policeman ordered him to make his declaration to the Police Commissioner.

Meanwhile Crainquebille was explaining:

‘Then I did say “*Mort aux vaches!*” Oh! . . .’

As he was thus giving vent to his astonishment, Madame Bayard, the shoemaker’s wife, came to him with sevenpence in her hand. But Constable 64 already had him by the collar; so Madame Bayard, thinking that no debt could be due to a man who was being taken to the police-station, put her sevenpence into her apron pocket.

Then, suddenly beholding his barrow confiscated, his liberty lost, a gulf opening beneath him and the sky overcast, Crainquebille murmured:

‘It can’t be helped!’

Before the Commissioner, the old gentleman declared that he had been hindered on his way by the block in the traffic, and so had witnessed the incident. He maintained that the policeman had not been insulted, and that he was laboring under a delusion. He gave his name and profession: Dr. David Matthieu, chief physician at the Ambroise-Paré Hospital, officer of the Legion of Honor. At another time such evidence would have been sufficient for the Commissioner. But just then men of science were regarded with suspicion in France.

Crainquebille continued under arrest. He passed the night in the lock-up. In the morning he was taken to the Police Court in the prison van.

He did not find prison either sad or humiliating. It seemed to him necessary. What struck him as he entered was the cleanliness of the walls and of the brick floor.

‘Well, for a clean place, yes, it is a clean place. You might eat off the floor.’

When he was left alone, he wanted to draw out his stool; but he perceived that it was fastened to the wall. He expressed his surprise aloud:

‘That’s a queer idea! Now there’s a thing I should never have thought of, I’m sure.’

Having sat down, he twiddled his thumbs and remained wrapped in amazement. The silence and the solitude overwhelmed him. The time seemed long. Anxiously he thought of his barrow, which had been confiscated with its load of cabbages, carrots, celery, dandelion, and corn salad. And he wondered, asking himself with alarm: ‘What have they done with my barrow?’

On the third day he received a visit from his lawyer, Maître Lemerle, one of the youngest members of the Paris Bar, President of a section of La Ligue de la Patrie Française.

Crainquebille endeavored to tell him his story; but it was not easy, for he was not accustomed to conversation. With a little help he might perhaps have succeeded. But his lawyer shook his head doubtfully at everything he said; and, turning over his papers, muttered:

‘Hm! Hm! I don’t find anything about all this in my brief.’

Then, in a bored tone, twirling his fair moustache he said:

‘In your own interest it would be advisable, perhaps, for you to confess. Your persistence in absolute denial seems to me extremely unwise.’

And from that moment Crainquebille would have made confession if he had known what to confess.

III. Crainquebille before the Magistrates

President Bourriche devoted six whole minutes to the examination of Crainquebille. The examination would have been more enlightening if the accused had replied to the questions asked him. But Crainquebille was unaccustomed to discussion; and in such a company his lips were sealed by reverence and fear. So he was silent: and the President answered his own question; his replies were staggering. He concluded: ‘Finally, you admit having said, “*Mort aux vaches!*” ’

'I said, "*Mort aux vaches!*" because the policeman said, "*Mort aux vaches!*" so then I said, "*Mort aux vaches!*" '

He meant that, being overwhelmed by the most unexpected of accusations, he had in his amazement merely repeated the curious words falsely attributed to him, and which he had certainly never pronounced. He had said, '*Mort aux vaches!*' as he might have said, "I capable of insulting any one! how could you believe it?"

President Bourriche put a different interpretation on the incident.

'Do you maintain,' he said, 'that the policeman was, himself, the first to utter the exclamation?'

Crainquebille gave up trying to explain. It was too difficult.

'You do not persist in your statement. You are quite right,' said the President.

And he had the witness called.

Constable 64, by name Bastien Matra, swore he spoke the truth and nothing but the truth. Then he gave evidence in the following terms:

'I was on my beat on October 20, at noon, when I noticed in the Rue Montmartre a person who appeared to be a hawker, unduly blocking the traffic with his barrow opposite No. 328. Three times I intimated to him the order to move on, but he refused to comply. And when I gave him warning that I was about to charge him, he retorted by crying: "*Mort aux vaches!*" Which I took as an insult.'

This evidence, delivered in a firm and moderate manner, the magistrates received with obvious approbation. The witnesses for the defense were Madame Bayard, shoemaker's wife, and Dr. David Matthieu, chief physician to the Hospital Ambroise-Paré, officer of the Legion of Honor. Madame Bayard had seen nothing and heard nothing. Dr. Matthieu was in the crowd which had gathered round the policeman, who was ordering the costermonger to move on. His evidence led to a new episode in the trial.

'I witnessed the incident,' he said. 'I observed that the constable had made a mistake; he had not been insulted. I went up to him and called his attention to the fact. The officer insisted on arresting the costermonger, and told me to follow him to the Commissioner of Police. This I did. Before the Commissioner, I repeated my declaration.'

'You may sit down,' said the President. 'Usher, recall witness Matra.'

'Matra, when you proceeded to arrest the accused, did not Dr. Mathieu point out to you that you were mistaken?'

'That is to say, Monsieur le Président, that he insulted me.'

'What did he say?'

'He said, "*Mort aux vaches!*"'

Uproarious laughter arose from the audience.

'You may withdraw,' said the President hurriedly.

And he warned the public that if such unseemly demonstrations occurred again he would clear the court. Meanwhile, Counsel for the defense was haughtily fluttering the sleeves of his gown, and for the moment it was thought that Crainquebille would be acquitted.

Order having been restored, Maître Lemerle rose. He opened his pleading with a eulogy of policemen: 'those unassuming servants of society who, in return for a trifling salary, endure fatigue and brave incessant danger with daily heroism. They were soldiers once, and soldiers they remain; soldiers, that word expresses everything. . . .'

From this consideration Maître Lemerle went on to descant eloquently on the military virtues. He was one of those, he said, who would not allow a finger to be laid on the army, on that national army, to which he was so proud to belong.

The President bowed. Maître Lemerle happened to be lieutenant in the Reserves. He was also nationalist candidate for Les Vieilles Haudriettes. He continued:

'No, indeed, I do not esteem lightly the invaluable services, unassumingly rendered, which the valiant people of Paris receive daily from the guardians of the peace. And had I beheld in Crainquebille, gentlemen, one who had insulted an ex-soldier, I should never have consented to represent him before you. My client is accused of having said: "*Mort aux vaches!*" The meaning of such an expression is clear. If you consult *Le Dictionnaire de la Langue Verte* (slang) you will find: "*Vachard*, a sluggard, an idler, one who stretches himself out lazily like a cow instead of working. *Vache*, one who sells himself to the police; spy." *Mort aux vaches!* is an expression employed by certain people.

But the question resolves itself into this: how did Crainquebille say it? And, further, did he say it at all? Permit me to doubt it, gentlemen.

'I do not suspect Constable Matra of any evil intention. But, as we have said, his calling is arduous. He is sometimes harassed, fatigued, overdone. In such conditions he may have suffered from an aural hallucination. And, when he comes and tells you, gentlemen, that Dr. David Matthieu, officer of the Legion of Honor, chief physician at the Ambroise-Paré Hospital, a gentleman and a prince of science, cried: "*Mort aux vaches!*" then we are forced to believe that Matra is obsessed, and if the term be not too strong, suffering from the mania of persecution.

'And even if Crainquebille did cry: "*Mort aux vaches!*" it remains to be proved whether such words on his lips can be regarded as an offense. Crainquebille is the natural child of a costermonger, depraved by years of drinking and other evil courses. Crainquebille was born alcoholic. You behold him brutalized by sixty years of poverty. Gentlemen you must conclude that he is irresponsible.'

Maître Lemerle sat down. Then President Bourriche muttered a sentence condemning Jérôme Crainquebille to pay fifty francs fine and to go to prison for a fortnight. The magistrates convicted him on the strength of the evidence given by Constable Matra.

As he was being taken down the long dark passage of the Palais, Crainquebille felt an intense desire for sympathy. He turned to the municipal guard who was his escort and called him three times:

"Cipal! . . . 'cipal! . . . Eh! 'cipal!" And he sighed:

'If any one had told me only a fortnight ago that this would happen!'

Then he reflected:

'They speak too quickly, these gentlemen. They speak well, but they speak too quickly. You can't make them understand you. . . . 'Cipal, don't you think they speak too quickly?'

But the soldier marched straight on without replying or turning his head.

Crainquebille asked him:

'Why don't you answer me?'

The soldier was silent. And Crainquebille said bitterly:

‘You would speak to a dog. Why not to me? Do you never open your mouth? Is it because your breath is foul?’

IV. An Apology for President Bourriche

After the sentence had been pronounced, several members of the audience and two or three lawyers left the hall. The clerk was already calling another case. Those who went out did not reflect on the Crainquebille affair, which had not greatly interested them; and they thought no more about it. Monsieur Jean Lermite, an etcher, who happened to be at the Palais, was the only one who meditated on what he had just seen and heard. Putting his arm on the shoulder of Maître Joseph Aubarrée, he said:

‘President Bourriche must be congratulated on having kept his mind free from idle curiosity, and from the intellectual pride which is determined to know everything. If he had weighed one against the other the contradictory evidence of Constable Matra and Dr. David Matthieu, the magistrate would have adopted a course leading to nothing but doubt and uncertainty. The method of examining facts in a critical spirit would be fatal to the administration of justice. If the judge were so imprudent as to follow that method, his sentences would depend on his personal sagacity, of which he has generally no very great store, and on human infirmity which is universal. Where can he find a criterion? It cannot be denied that the historical method is absolutely incapable of providing him with the certainty he needs. In this connection you may recall a story told of Sir Walter Raleigh.

‘“One day, when Raleigh, a prisoner in the Tower of London, was working, as was his wont, at the second part of his *History of the World*, there was a scuffle under his window. He went and looked at the brawlers; and when he returned to his work, he thought he had observed them very carefully. But on the morrow, having related the incident to one of his friends who had witnessed the affair and had even taken part in it, he was contradicted by his friend on every point. Reflecting, therefore, that if he were mistaken as to events which passed beneath his very eyes, how much greater must be the difficulty of ascertaining the truth concerning events far distant, he threw the manuscript of his history into the fire.”

'If the judges had the same scruples as Sir Walter Raleigh, they would throw all their notes into the fire. But they have no right to do so. They would thus be flouting justice; they would be committing a crime. We may despair of knowing, we must not despair of judging. Those who demand that sentences pronounced in Law Courts should be founded upon a methodical examination of facts, are dangerous sophists, and perfidious enemies of justice both civil and military. President Bourriche has too judicial a mind to permit his sentences to depend on reason and knowledge, the conclusions of which are eternally open to question. He founds them on dogma and moulds them by tradition, so that the authority of his sentences is equal to that of the Church's commandments. His sentences are indeed canonical. I mean that he derives them from a certain number of sacred canons. See, for example, how he classifies evidence, not according to the uncertain and deceptive qualities of appearance and of human veracity, but according to intrinsic, permanent, and manifest qualities. He weighs them in the scale, using weapons of war for weights. Can anything be at once simpler and wiser? Irrefutable for him is the evidence of a guardian of the peace, once his humanity be abstracted, and he conceived as a registered number, and according to the categories of an ideal police. Not that Matra (Bastien), born at Cinto-Monte in Corsica, appears to him incapable of error. He never thought that Bastien Matra was gifted with any great faculty of observation, nor that he applied any secret and vigorous method to the examination of facts. In truth it is not Bastien Matra he is considering, but Constable 64. A man is fallible, he thinks. Peter and Paul may be mistaken. Descartes and Gassendi, Leibniz and Newton, Bichat and Claude Bernard were capable of error. We may all err at any moment. The causes of error are innumerable. The perceptions of our senses and the judgment of our minds are sources of illusion and causes of uncertainty. We dare not rely on the evidence of a single man: *Testis unus, testis nullus*. But we may have faith in a number. Bastien Matra, of Cinto-Monte, is fallible. But Constable 64, when abstraction has been made of his humanity, cannot err. He is an entity. An entity has nothing in common with a man, it is free from all that confuses, corrupts and deceives men. It is pure, unchangeable and unalloyed. Wherefore the magistrates did not hesitate to reject the evidence of the mere man,

Dr. David Matthieu, and to admit that of Constable 64, who is the pure idea, an emanation from divinity come down to the judgment bar.

“By following such a line of argument, President Bourriche attains to a kind of infallibility, the only kind to which a magistrate may aspire. When the man who bears witness is armed with a sword, it is the sword’s evidence that must be listened to, not the man’s. The man is contemptible and may be wrong. The sword is not contemptible and is always right. President Bourriche has seen deeply into the spirit of laws. Society rests on force; force must be respected as the august foundation of society. Justice is the administration of force. President Bourriche knows that Constable 64 is an integral part of the Government. The Government is immanent in each one of its officers. To slight the authority of Constable 64 is to weaken the State. To eat the leaves of an artichoke is to eat the artichoke, as Bossuet puts it in his sublime language. (*Politique tiree de l’Écriture sainte, passim.*)

‘All the swords of the State are turned in the same direction. To oppose one to the other is to overthrow the Republic. For that reason, Crainquebille, the accused, is justly condemned to a fortnight in prison and a fine of fifty francs, on the evidence of Constable 64. I seem to hear President Bourriche, himself, explaining the high and noble considerations which inspired his sentence. I seem to hear him saying:

‘ “I judged this person according to the evidence of Constable 64, because Constable 64 is the emanation of public force. And if you wish to prove my wisdom, imagine the consequences had I adopted the opposite course. You will see at once that it would have been absurd. For if my judgments were in opposition to force, they would never be executed. Notice, gentlemen, that judges are only obeyed when force is on their side. A judge without policemen would be but an idle dreamer. I should be doing myself an injury if I admitted a policeman to be in the wrong. Moreover, the very spirit of laws is in opposition to my doing so. To disarm the strong and to arm the weak would be to subvert that social order which it is my duty to preserve. Justice is the sanction of established injustice. Was justice ever seen to oppose conquerors and usurpers? When an unlawful power arises, justice has only to recognize it and it becomes lawful. Form is everything; and between crime and innocence there is but the thickness of a piece of stamped paper. It was for you, Crainquebille, to be the strongest.

If, after having cried: '*Mort aux vaches!*' you had declared yourself emperor, dictator, President of the Republic, or even town councillor, I assure you you would not have been sentenced to pass a fortnight in prison, and to pay a fine of fifty francs. I should have acquitted you. You may be sure of that."

'Such would have doubtless been the words of President Bourriche; for he has a judicial mind, and he knows what a magistrate owes to society. With order and regularity he defends social principles. Justice is social. Only wrong-headed persons would make justice out to be human and reasonable. Justice is administered upon fixed rules, not in obedience to physical emotions and flashes of intelligence. Above all things do not ask justice to be just, it has no need to be just since it is justice, and I might even say that the idea of just justice can have only arisen in the brains of an anarchist. True, President Magnaud pronounces just sentences; but if they are reversed, that is still justice.

'The true judge weighs his evidence with weights that are weapons. So it was in the Crainquebille affair, and in other more famous cases.'

Thus said Monsieur Jean Lermite as he paced up and down the Salle des Pas-Perdus.

Scratching the tip of his nose, Maître Joseph Aubarrée, who knows the Palais well, replied:

'If you want to hear what I think, I don't believe that President Bourriche rose to so lofty a metaphysical plane. In my opinion, when he received as true the evidence of Constable 64, he merely acted according to precedent. Imitation lies at the root of most human actions. A respectable person is one who conforms to custom. People are called good when they do as others do.'

V. Crainquebille Submits to the Laws of the Republic

Having been taken back to his prison, Crainquebille sat down on his chained stool, filled with astonishment and admiration. He, himself, was not quite sure whether the magistrates were mistaken. The tribunal had concealed its essential weakness beneath the majesty of form. He could not believe that he was in the right, as against magistrates whose reasons he had not understood: it was impossible for him to conceive that anything could go wrong in so elaborate a

ceremony. For, unaccustomed to attending Mass or frequenting the Élysée, he had never in his life witnessed anything so grand as a police court trial. He was perfectly aware that he had never cried: '*Mort aux vaches!*' That for having said it he should have been sentenced to a fortnight's imprisonment seemed to him an august mystery, one of those articles of faith to which believers adhere without understanding them, an obscure, striking, adorable and terrible revelation.

This poor old man believed himself guilty of having mystically offended Constable 64, just as the little boy learning his first Catechism believes himself guilty of Eve's sin. His sentence had taught him that he had cried: '*Mort aux vaches!*' He must, therefore have cried: '*Mort aux vaches!*' in some mysterious manner, unknown to himself. He was transported into a supernatural world. His trial was his apocalypse.

If he had no very clear idea of the offense, his idea of the penalty was still less clear. His sentence appeared to him a solemn and superior ritual, something dazzling and incomprehensible, which is not to be discussed, and for which one is neither to be praised nor pitied. If at that moment he had seen President Bourriche, with white wings and a halo round his forehead, coming down through a hole in the ceiling, he would not have been surprised at this new manifestation of judicial glory. He would have said: 'This is my trial continuing!'

On the next day his lawyer visited him:

'Well, my good fellow, things aren't so bad after all! Don't be discouraged. A fortnight is soon over. We have not much to complain of.'

'As for that, I must say the gentlemen were very kind, very polite: not a single rude word. I shouldn't have believed it. And the '*cipal*' was wearing white gloves. Did you notice?'

'Everything considered, we did well to confess.'

'Perhaps.'

'Crainquebille, I have a piece of good news for you. A charitable person, whose interest I have elicited on your behalf, gave me fifty francs for you. The sum will be used to pay your fine.'

'When will you give me the money?'

'It will be paid into the clerk's office. You need not trouble about it.'

'It does not matter. All the same I am very grateful to this person.' And Crainquebille murmured meditatively: 'It's something out of the common that's happening to me.'

'Don't exaggerate, Crainquebille. Your case is by no means rare, far from it.'

'You couldn't tell me where they've put my barrow?'

VI. Crainquebille in the Light of Public Opinion

After his discharge from prison, Crainquebille trundled his barrow along the Rue Montmarte, crying: 'Cabbages! Turnips! Carrots!' He was neither ashamed nor proud of his adventure. The memory of it was not painful. He classed it in his mind with dreams, travels, and plays. But, above all things, he was glad to be walking in the mud, along the paved streets, and to see overhead the rainy sky as dirty as the gutter, the dear sky of the town. At every corner he stopped to have a drink; then, gay and unconstrained, spitting in his hands in order to moisten his horny palms, he would seize the shafts and push on his barrow. Meanwhile a flight of sparrows, as poor and as early as he, seeking their livelihood in the road, flew off at the sound of his familiar cry: 'Cabbages! Turnips! Carrots!' An old housewife, who had come up, said to him as she felt his celery:

'What's happened to you, Père Crainquebille? We haven't seen you for three weeks. Have you been ill? You look rather pale.'

'I'll tell you, M'ame Mailloche, I've been doing the gentleman.'

Nothing in his life changed, except that he went oftener to the pub, because he had an idea it was a holiday and that he had made the acquaintance of charitable folk. He returned to his garret rather gay. Stretched on his mattress he drew over him the sacks borrowed from the chestnut-seller at the corner which served him as blankets and he pondered: "Well, prison is not so bad; one has everything one wants there. But all the same one is better at home."

His contentment did not last long. He soon perceived that his customers looked at him askance.

'Fine celery, M'ame Cointreau!'

'I don't want anything.'

‘What! nothing! do you live on air then?’

And M’ame Cointreau without deigning to reply returned to the large bakery of which she was the mistress. The shopkeepers and caretakers, who had once flocked round his barrow all green and blooming, now turned away from him. Having reached the shoemaker’s, at the sign of l’Ange Gardien, the place where his adventures with justice had begun, he called:

‘M’ame Bayard, M’ame Bayard, you owe me sevenpence halfpenny from last time.’

But M’ame Bayard, who was sitting at her counter, did not deign to turn her head.

The whole of the Rue Montmartre was aware that Père Crainquebille had been in prison, and the whole of the Rue Montmartre gave up his acquaintance. The rumor of his conviction had reached the Faubourg and the noisy corner of the Rue Richer. There, about noon, he perceived Madame Laure, a kind and faithful customer, leaning over the barrow of another costermonger, young Martin. She was feeling a large cabbage. Her hair shone in the sunlight like masses of golden threads loosely twisted. And young Martin, a nobody, a good-for-nothing, was protesting with his hand on his heart that there were no finer vegetables than his. At this sight Crainquebille’s heart was rent. He pushed his barrow up to young Martin’s, and in a plaintive broken voice said to Madame Laure: ‘It’s not fair of you to forsake me.’

As Madame Laure herself admitted, she was no duchess. It was not in society that she had acquired her ideas of the prison van and the police-station. But can one not be honest in every station in life? Every one has his self-respect; and one does not like to deal with a man who has just come out of prison. So the only notice she took of Crainquebille was to give him a look of disgust. And the old costermonger resenting the affront shouted:

‘Dirty wench, go along with you.’

Madame Laure let fall her cabbage and cried:

‘Eh! Be off with you, you bad penny. You come out of prison and then insult folk!’

If Crainquebille had had any self-control he would never have reproached Madame Laure with her calling. He knew only too well that

one is not master of one's fate, that one cannot always choose one's occupation, and that good people may be found everywhere. He was accustomed discreetly to ignore her customers' business with her; and he despised no one. But he was beside himself. Three times he called Madame Laure drunkard, wench, harridan. A group of idlers gathered round Madame Laure and Crainquebille. They exchanged a few more insults as serious as the first; and they would soon have exhausted their vocabulary, if a policeman had not suddenly appeared, and at once, by his silence and immobility, rendered them as silent and as motionless as himself. They separated. But this scene put the finishing touch to the discrediting of Crainquebille in the eyes of the Faubourg Montmartre and the Rue Richer.

VII. Results

The old man went along mumbling:

'For certain she's a hussy, and none more of a hussy than she.'

But at the bottom of his heart that was not the reproach he brought against her. He did not scorn her for being what she was. Rather he esteemed her for it, knowing her to be frugal and orderly. Once they had liked to talk together. She used to tell him of her parents who lived in the country. And they had both resolved to have a little garden and keep poultry. She was a good customer. And then to see her buying cabbages from young Martin, a dirty, good-for-nothing wretch; it cut him to the heart; and when she pretended to despise him, that put his back up, and then . . . !

But she alas! was not the only one who shunned him as if he had the plague. Every one avoided him. Just like Madame Laure, Madame Cointreau the baker, Madame Bayard of l'Ange Gardien scorned and repulsed him. Why! the whole of society refused to have anything to do with him.

So because one had been put away for a fortnight one was not good enough even to sell leeks! Was it just? Was it reasonable to make a decent chap die of starvation because he had got into difficulties with a copper? If he was not to be allowed to sell vegetables then it was all over with him. Like a badly doctored wine he turned sour. After having had words with Madame Laure, he now had them with every

one. For a mere nothing he would tell his customers what he thought of them and in no ambiguous terms, I assure you. If they felt his wares too long he would call them to their faces chatterer, soft head. Likewise at the wineshop he bawled at his comrades. His friend, the chestnut-seller, no longer recognized him; old Père Crainquebille, he said, had turned into a regular porcupine. It cannot be denied: he was becoming rude, disagreeable, evil-mouthed, loquacious. The truth of the matter was that he was discovering the imperfections of society; but he had not the facilities of a Professor of Moral and Political Science for the expression of his ideas concerning the vices of the system and the reforms necessary; and his thoughts evolved devoid of order and moderation.

Misfortune was rendering him unjust. He was taking his revenge on those who did not wish him ill and sometimes on those who were weaker than he. One day he boxed Alphonse, the wine-seller's little boy, on the ear, because he had asked him what it was like to be sent away. Crainquebille struck him and said:

'Dirty brat! it's your father who ought to be sent away instead of growing rich by selling poison.'

A deed and a speech which did him no honor; for, as the chestnut-seller justly remarked, one ought not to strike a child, neither should one reproach him with a father whom he had not chosen.

Crainquebille began to drink. The less money he earned the more brandy he drank. Formerly frugal and sober, he himself marvelled at the change.

'I never used to be a waster,' he said. 'I suppose one doesn't improve as one grows old.'

Sometimes he severely blamed himself for his misconduct and his laziness:

'Crainquebille, old chap, you ain't good for anything but liftin' your glass.'

Sometimes he deceived himself and made out that he needed the drink.

'I must have it now and then; I must have a drop to strengthen me and cheer me up. It seems as if I had a fire in my inside; and there's nothing like the drink for quenching it.'

It often happened that he missed the auction in the morning and so had to provide himself with damaged fruit and vegetables on credit. One day, feeling tired and discouraged, he left his barrow in its shed, and spent the livelong day hanging round the stall of Madame Rose, the tripe-seller, or lounging in and out of the wine-shops near the market. In the evening, sitting on a basket, he meditated and became conscious of his deterioration. He recalled the strength of his early years: the achievements of former days, the arduous labors and the glad evenings: those days quickly passing, all alike and fully occupied; the pacing in the darkness up and down the market pavement, waiting for the early auction; the vegetables carried in armfuls and artistically arranged in the barrow; the piping hot black coffee of Mère Théodore swallowed standing, and at one gulp; the shafts grasped vigorously; and then the loud cry, piercing as cock crow, rending the morning air as he passed through the crowded streets. All that innocent, rough life of the human pack-horse came before him. For half a century on his travelling stall, he had borne to townsfolk worn with care and vigil the fresh harvest of kitchen gardens. Shaking his head he sighed: 'No! I'm not what I was. I'm done for. The pitcher goes so often to the well that at last it comes home broken. And then I've never been the same since my affair with the magistrates. No, I'm not the man I was.'

In short he was demoralized. And when a man reaches that condition he might as well be on the ground and unable to rise. All the passers-by tread him under foot.

VIII. The Final Result

Poverty came, black poverty. The old costermonger who used to come back from the Faubourg Montmartre with a bag full of five-franc pieces, had not a single coin now. Winter came. Driven out of his garret, he slept under the carts in a shed. It had been raining for days; the gutters were overflowing, and the shed was flooded.

Crouching in his barrow, over the pestilent water, in the company of spiders, rats and half-starved cats, he was meditating in the gloom. Having eaten nothing all day and no longer having the chestnut-seller's sacks for a covering, he recalled the fortnight when the Government had provided him with food and clothing. He envied the prisoners' fate. They suffer neither cold nor hunger, and an idea occurred to him:

‘Since I know the trick why don’t I use it?’

He rose and went out into the street. It was a little past eleven. The night was dark and chill. A drizzling mist was falling, colder and more penetrating than rain. The few passers-by crept along under cover of the houses.

Crainquebille went past the Church of Saint-Eustache and turned into the Rue Montmartre. It was deserted. A guardian of the peace stood on the pavement, by the apse of the church. He was under a gas-lamp, and all around fell a fine rain looking reddish in the gaslight. It fell on to the policeman’s hood. He looked chilled to the bone; but, either because he preferred to be in the light or because he was tired of walking he stayed under the lamp, and perhaps it seemed to him a friend, a companion. In the loneliness of the night the flickering flame was his only entertainment. In his immobility he appeared hardly human. The reflection of his boots on the wet pavement, which looked like a lake, prolonged him downwards and gave him from a distance the air of some amphibious monster half out of water. Observed more closely he had at once a monkish and a military appearance. The coarse features of his countenance, magnified under the shadow of his hood, were sad and placid. He wore a thick moustache, short and gray. He was an old copper, a man of some two-score years. Crainquebille went up to him softly, and in a weak hesitating voice, said: ‘*Mort aux vaches!*’

Then he awaited the result of those sacred words. But nothing came of them. The constable remained motionless and silent, with his arms folded under his short cloak. His eyes were wide open; they glistened in the darkness and regarded Crainquebille with sadness, vigilance, and scorn.

Crainquebille, astonished, but still resolute, muttered:

‘*Mort aux vaches!* I tell you.’

There was a long silence in the chill darkness and the falling of the fine penetrating rain. At last the constable spoke:

‘Such things are not said. . . . For sure and for certain they are not said. At your age you ought to know better. Pass on.’

‘Why don’t you arrest me?’ asked Crainquebille.

The constable shook his head beneath his dripping hood:

‘If we were to take up all the addlepates who say what they oughtn’t to, we should have our work cut out! . . . And what would be the use of it?’

Overcome by such magnanimous disdain, Crainquebille remained for some time stolid and silent, with his feet in the gutter. Before going, he tried to explain:

‘I didn’t mean to say: *Mort aux vaches!* to you. It was not for you more than for another. It was only an idea.’

The constable replied sternly but kindly:

‘Whether an idea or anything else, it ought not to be said, because when a man does his duty and endures much, he ought not to be insulted with idle words. . . . I tell you again to pass on.’

Crainquebille, with head bent and arms hanging limp, plunged into the rain and the darkness.

VILLIERS DE L'ISLE ADAM

THE HEROISM OF DR. HALLIDONHILL

The work of the French writer De L'Isle Adam (1838–1889) includes short stories of the kind frequently referred to as “shocking tales.” They are stories of the same genre as Edgar Allen Poe’s *The Cask of Amontillado*. De L'Isle Adam called them “cruel tales.” Among the best known of these stories is the one that we present here. Written long before World War II, this story touches upon a point of law that was actually at issue in one of the Nuremberg Trials: the criminality of using human beings as guinea pigs in medical experiments.

To kill in order to cure!

Official adage of Broussais

THE UNUSUAL CASE of Doctor Hallidonhill will shortly come before the London Assizes. Here are the facts:

The twentieth of last May, the two vast ante-chambers of the illustrious specialist, the healer *quand-même* of all affections of the lungs, overflowed with clients, as was habitually the case,—their appointment-cards in their hands.

At the entrance, in a long black frock-coat, stood the receiver of money: he took from each one the required two guineas, tested them, with a single blow of the hammer upon an anvil *de luxe*, automatically crying out, “All-right!”

In the glassed-in office,—bordered all around by large tropical plants in their great pots from Japan,—had just seated himself before his desk, the erect little Doctor Hallidonhill. At his side, next to a round table, his secretary took down brief prescriptions in short-hand. On the steps leading up to a door, draped in red velvet, with gold clasps, stood an attendant of monstrous size, whose duty it was to transport the staggering consumptives to the landing-place,—from which they were taken down in the elevator in special lounges (all this after the sacramental “Next!” had been pronounced).

The patients entered, eyes glassy and veiled, torso naked, their clothes over their arm; they received, on the instant, upon the back and chest, the application of the pessimeter and tube.

“Tik! tik! plaff! Breathe!. . . Plaff. . . Good.”

Followed a medication dictated in few seconds, then the famous “Next!” And, for three years, every morning, the commonplace procession filed away like this, from nine o’clock until precisely twelve.

Suddenly, upon that day, the twentieth of May, nine o'clock was striking, when a sort of tall skeleton with enlarged pupils, the hollows of his cheeks touching under his palate, the torso bare, resembling a cage around which was twisted a flabby parchment, uplifted by the inhalation of a broken cough,—briefly, one who was doubtfully alive, a piece of blue fox fur folded over one of his emaciated fore-arms, elongated the compass of his femurs in the doctor's office, while holding himself up by the large leaves of the plants.

"Tik! tik! plaff! Nothing to do!" grumbled Doctor Hallidonhill; "am I a coroner, good for pronouncing upon the deceased? Within a week, the greater growth of this left lung will be discharged: and the right is a sieve! . . . Next!"

The attendant was about to "remove the client," when the eminent therapist, slapping himself on the forehead, brusquely added, with a complex smile:

"Are you rich?"

"An arch-millionaire!", croaked, all in tears, the unfortunate personage whom Hallidonhill had just so succinctly dismissed from the planet.

"In that case, have your carriage leave you at Victoria Station! Eleven o'clock express to Dover! . . . Then the boat! . . . Then from Calais to Marseilles, sleeping-car with stove! . . . And then on Nice! There, six months of water-cress, day and night, without bread, or wine, or fruits, or meats. A spoonful of rain-water, well iodined, every other day. And water-cress, water-cress, water-cress! . . . ground, pounded in its juice . . . only chance . . . and even then!—This pretended cure, with which they besiege my ears, appears to me more than absurd. I offer it to a desperate man, but without believing in it for a second. Well everything is possible . . . Next!"

The tubercular Cræsus, once delicately placed in the canopied enclosure of the elevator, the usual procession of consumptive, scorbutic, and bronchial patients began.

Six months later, the third of November, nine o'clock was striking, when a species of giant with a formidable and joyous voice, the timbre of which made the panes of glass in the office vibrate, and the leaves of the tropical plants tremble, a chubby-cheeked colossus, in rich furs, having hurled himself like a human bomb through the lamentable ranks

of the clientele of Doctor Hallidonhill, penetrated, without appointment-card, into the sanctum of the Prince of Science, who, cold, in his black suit, had just seated himself as usual in front of his table. Seizing his body in his arms, he lifted him like a feather, and bathing,—in silence,—the withered and sallow cheeks of the practitioner with tender tears, kissed them, and kissed them again, in a sonorous fashion, in the manner of a paradoxical Norman nurse . . . then replaced him, half in a coma, and almost suffocated, in his green arm-chair.

“Two millions? Do you want them? Do you want three?” vociferated the giant, a terrible and living advertisement. “I owe to you the breath of life, the sun, good meals, the unbounded passions, existence, everything! Claim, therefore, from me unheard-of remuneration! I have a thirst for making recompense!”

“Well! really, who is this madman? . . . Have him put out!” . . . feebly articulated the doctor after a moment’s prostration. “But no, but no!”, scolded the giant, with the look of a boxer, which made the attendant draw back. “In reality, I understand that you, even you, my saviour, do not recognize me. I am the man of the water-cress! The skeleton that was done-for, lost! Nice! water-cress, water-cress, water-cress! . . . I have finished my semester, and here is what you have accomplished. Look here; listen to this!”

And he beat upon his thorax with fists capable of breaking the skulls of prime Middlesex bulls.

“Hein!” cried the doctor, leaping to his feet,—“you are . . . what! This is the moribund who”

“Yes, a thousand times yes, it is I!” shouted the giant:—“Since last evening, scarcely had I left the steamer, when I ordered your statue in bronze, and I will know how to manage to have some funeral ground bestowed on you at Westminster!”

Letting himself fall upon a vast sofa, the spring of which creaked and groaned: “—Ah, but life is good!” he sighed with the beatific smile of placid ecstasy. Upon two rapid words pronounced in a low voice by the doctor, the secretary and the attendant withdrew. Once alone with his resuscitated patient, Hallidonhill, stiff, wan and icy, with a nervous eye, looked upon the giant, during several seconds, in silence—then, all of a sudden:

"Permit me, in the first place," he murmured in a strange tone, "to remove this fly from your temple!" and precipitating himself forward, the doctor, taking from his pocket a short bull-dog revolver, discharged it twice, very rapidly into the artery of the left temple.

The giant fell, the skull fractured, bespattering with his grateful brain, the rug of the room, which he beat with the palms of his hands for a minute.

With ten cuts of the scissors, fur great coat, clothes, and under clothes, slashed at random, left bare his chest,—which the grave surgeon, with a single stroke of his large bistoury, cleft immediately from bottom to top.

A quarter of an hour later, when the constable had entered the office to beg Doctor Hallidonhill to be so good as to follow him, the latter, calm, seated before his table, his powerful magnifying glass in his hand, scrutinised a pair of enormous lungs laid out flat upon his sanguinary desk. The genius of Science was trying, in the person of this man, to find an explanation of the arch-miraculous action of the water-cress, at once lubricating and relieving.

"Constable," said he, as he rose, "I judged it opportune to immolate this man,—his immediate autopsy being able to reveal a salutary secret for the degenerating tree of the human species: that is why I did not hesitate, I admit it, to sacrifice, in this instance, my conscience to my duty."

Needless to add that the illustrious doctor was released upon purely formal bail, his liberty being more useful to us than his detention. This strange affair will now come before the British assizes. Ah! what marvellous legal appeals Europe will read!

Everything leads us to hope that this sublime attempt will not cost its hero the gallows of New Gate, the English being people to understand, just as well that *the exclusive love of future humanity to the point of perfect disregard of the present individual is, in our day, the unique motive which must absolve the magnanimous outrages of Science.*

OSCAR WILDE

LORD ARTHUR SAVILE'S CRIME:
A STUDY OF DUTY

The personal tragedy of Oscar Wilde (1854–1900), and his great contribution to English literature are matters of common knowledge. Less known, but exceptionally interesting, is the short story which follows, whose full title anticipates its cynically paradoxical contents. A tale of murder committed out of a perverse feeling of duty, and under such circumstances that the murderer is not even suspected, *Lord Arthur Savile's Crime* illustrates the so-called “perfect crime.”

IT WAS LADY WINDERMERE'S last reception before Easter, and Bentinck House was even more crowded than usual. Six Cabinet Ministers had come on from the Speaker's Levée in their stars and ribands, all the pretty women wore their smartest dresses, and at the end of the picture-gallery stood the Princess Sophia of Carlsruhe, a heavy Tartar-looking lady, with tiny black eyes and wonderful emeralds, talking bad French at the top of her voice, and laughing immoderately at everything that was said to her. It was certainly a wonderful medley of people. Gorgeous peeresses chatted affably to violent Radicals, popular preachers brushed coat-tails with eminent sceptics, a perfect bevy of bishops kept following a stout prima-donna from room to room, on the staircase stood several Royal Academicians, disguised as artists, and it was said that at one time the supper-room was absolutely crammed with geniuses. In fact, it was one of Lady Windermere's best nights, and the Princess stayed till nearly half-past eleven.

As soon as she had gone, Lady Windermere returned to the picture-gallery, where a celebrated political economist was solemnly explaining the scientific theory of music to an indignant virtuoso from Hungary, and began to talk to the Duchess of Paisley. She looked wonderfully beautiful with her grand ivory throat, her large blue forget-me-not eyes, and her heavy coils of golden hair. *Or pur*¹ they were—not that pale straw colour that nowadays usurps the gracious name of gold, but such gold as is woven into sunbeams or hidden in strange amber; and they gave to her face something of the frame of a saint, with not a little of the fascination of a sinner. She was a curious psychological study.

1. Pure gold.

Early in life she had discovered the important truth that nothing looks so like innocence as an indiscretion; and by a series of reckless escapades, half of them quite harmless, she had acquired all the privileges of a personality. She had more than once changed her husband; indeed, Debrett credits her with three marriages; but as she had never changed her lover, the world had long ago ceased to talk scandal about her. She was now forty years of age, childless, and with that inordinate passion for pleasure which is the secret of remaining young.

Suddenly she looked eagerly round the room, and said, in her clear contralto voice, "Where is my chiromantist?"

"Your what, Gladys?" exclaimed the Duchess, giving an involuntary start.

"My chiromantist, Duchess; I can't live without him at present."

"Dear Gladys! you are always so original," murmured the Duchess, trying to remember what a chiromantist really was, and hoping it was not the same as a chiropodist.

"He comes to see my hand twice a week regularly," continued Lady Windermere, "and is most interesting about it."

"Good heavens!" said the Duchess to herself, "he is a sort of chiropodist after all. How very dreadful. I hope he is a foreigner at any rate. It wouldn't be quite so bad then."

"I must certainly introduce him to you."

"Introduce him!" cried the Duchess; "you don't mean to say he is here?" and she began looking about for a small tortoise-shell fan and a very tattered lace shawl, so as to be ready to go at a moment's notice.

"Of course he is here; I would not dream of giving a party without him. He tells me I have a pure psychic hand, and that if my thumb had been the least little bit shorter, I should have been a confirmed pessimist, and gone into a convent."

"Oh, I see!" said the Duchess, feeling very much relieved; "he tells fortunes, I suppose?"

"And misfortunes, too," answered Lady Windermere, "any amount of them. Next year, for instance, I am in great danger, both by land and sea, so I am going to live in a balloon, and draw up my dinner in

a basket every evening. It is all written down on my little finger, or on the palm of my hand, I forget which."

"But surely that is tempting Providence, Gladys."

"My dear Duchess, surely Providence can resist temptation by this time. I think every one should have their hands told once a month so as to know what not to do. Of course, one does it all the same, but it is so pleasant to be warned. Now if some one doesn't go and fetch Mr. Podgers at once, I shall have to go myself."

"Let me go, Lady Windermere," said a tall handsome young man, who was standing by, listening to the conversation with an amused smile.

"Thanks so much, Lord Arthur; but I am afraid you wouldn't recognize him."

"If he is as wonderful as you say, Lady Windermere, I couldn't well miss him. Tell me what he is like, and I'll bring him to you at once."

"Well, he is not a bit like a chiromantist. I mean he is not mysterious, or esoteric, or romantic-looking. He is a little, stout man, with a funny, bald head, and great gold-rimmed spectacles; something between a family doctor and a country attorney. I'm really very sorry, but it is not my fault. People are so annoying. All my pianists look exactly like poets; and all my poets look exactly like pianists; and I remember last season asking a most dreadful conspirator to dinner, a man who had blown up ever so many people, and always wore a coat of mail, and carried a dagger up his shirt-sleeve; and do you know that when he came he looked just like a nice old clergyman, and cracked jokes all the evening? of course, he was very amusing, and all that, but I was awfully disappointed; and when I asked him about the coat of mail, he only laughed, and said it was far too cold to wear in England. Ah, here is Mr. Podgers! Now, Mr. Podgers, I want you to tell the Duchess of Paisley's hand. Duchess, you must take your glove off. No, not the left hand, the other."

"Dear Gladys, I really don't think it is quite right," said the Duchess, feebly unbuttoning a rather soiled kid glove.

"Nothing interesting ever is," said Lady Windermere: "*on a fait le monde ainsi*.² But I must introduce you. Duchess, this is Mr. Podgers,

2. Such is the world.

my pet chiromantist. Mr. Podgers, this is the Duchess of Paisley, and if you say that she has a larger mountain of the moon than I have, I will never believe in you again."

"I am sure, Gladys, there is nothing of the kind in my hand," said the Duchess gravely.

"Your Grace is quite right," said Mr. Podgers, glancing at the little fat hand with its short square fingers, "the mountain of the moon is not developed. The line of life, however, is excellent. Kindly bend the wrist. Thank-you. Three distinct lines on the *rascette*?³ You will live to a great age, Duchess, and be extremely happy. Ambition—very moderate, line of intellect not exaggerated, line of heart—"

"Now, do be indiscreet, Mr. Podgers," cried Lady Windermere.

"Nothing would give me greater pleasure," said Mr. Podgers, bowing, "if the Duchess ever had been, but I am sorry to say that I see great permanence of affection, combined with a strong sense of duty."

"Pray go on, Mr. Podgers," said the Duchess, looking quite pleased.

"Economy is not the least of your Grace's virtues," continued Mr. Podgers, and Lady Windermere went off into fits of laughter.

"Economy is a very good thing," remarked the Duchess complacently; "when I married Paisley he had eleven castles, and not a single house fit to live in."

"And now he has twelve houses, and not a single castle," cried Lady Windermere.

"Well, my dear," said the Duchess, "I like—"

"Comfort," said Mr. Podgers, "and modern improvements, and hot water laid on in every bedroom. Your Grace is quite right. Comfort is the only thing our civilisation can give us."

"You have told the Duchess's character admirably, Mr. Podgers, and now you must tell Lady Flora's"; and in answer to a nod from the smiling hostess, a tall girl, with sandy Scotch hair, and high shoulder-blades, stepped awkwardly from behind the sofa, and held out a long, bony hand with spatulate fingers.

3. (In palmistry) part of the hand with lines running crosswise.

"Ah, a pianist! I see," said Mr. Podgers, "an excellent pianist, but perhaps hardly a musician. Very reserved, very honest, and with a great love of animals."

"Quite true!" exclaimed the Duchess, turning to Lady Windermere, "absolutely true! Flora keeps two dozen collie dogs at Macloskie, and would turn our town house into a menagerie if her father would let her."

"Well, that is just what I do with my house every Thursday evening," cried Lady Windermere, laughing, "only I like lions better than collie dogs."

"Your one mistake, Lady Windermere," said Mr. Podgers, with a pompous bow.

"If a woman can't make her mistakes charming, she is only a female," was the answer. "But you must read some more hands for us. Come, Sir Thomas, show Mr. Podgers yours"; and a genial-looking old gentleman, in a white waistcoat, came forward, and held out a thick rugged hand, with a very long third finger.

"An adventurous nature; four long voyages in the past, and one to come. Been shipwrecked three times. No, only twice, but in danger of a shipwreck your next journey. A strong Conservative, very punctual and with a passion for collecting curiosities. Had a severe illness between the ages of sixteen and eighteen. Was left a fortune when about thirty. Great aversion to cats and Radicals."

"Extraordinary!" exclaimed Sir Thomas: "you must really tell my wife's hand, too."

"Your second wife's," said Mr. Podgers quietly, still keeping Sir Thomas's hand in his. "Your second wife's. I shall be charmed"; but Lady Marvel, a melancholy-looking woman, with brown hair and sentimental eyelashes, entirely declined to have her past or her future exposed; and nothing that Lady Windermere could do would induce Monsieur de Koloff, the Russian Ambassador, even to take his gloves off. In fact, many people seemed afraid to face the odd little man with his stereotyped smile, his gold spectacles, and his bright, beady eyes; and when he told poor Lady Fermor right out before every one, that she did not care a bit for music, but was extremely fond of musicians, it

was generally felt that chiromancy was a most dangerous science, and one that ought not to be encouraged, except in a *tête-à-tête*.

Lord Arthur Savile, however, who did not know anything about Lady Fermor's unfortunate story, and who had been watching Mr. Podgers with a great deal of interest, was filled with an immense curiosity to have his own hand read, and feeling somewhat shy about putting himself forward, crossed over the room to where Lady Windermere was sitting, and, with a charming blush, asked her if she thought Mr. Podgers would mind.

"Of course he won't mind," said Lady Windermere, "that is what he is here for. All my lions, Lord Arthur, are performing lions, and jump through hoops whenever I ask them. But I must warn you beforehand that I shall tell Sybil everything. She is coming to lunch with me to-morrow, to talk about bonnets, and if Mr. Podgers finds out that you have a bad temper, or a tendency to gout, or a wife living in Bayswater, I shall certainly let her know all about it."

Lord Arthur smiled, and shook his head. "I am not afraid," he answered. "Sybil knows me as well as I know her."

"Ah! I am a little sorry to hear you say that. The proper basis for marriage is a mutual misunderstanding. No, I am not at all cynical. I have merely got experience, which, however, is very much the same thing. Mr. Podgers, Lord Arthur Savile is dying to have his hand read. Don't tell him that he is engaged to one of the most beautiful girls in London, because that appeared in the *Morning Post* a month ago."

"Dear Lady Windermere," cried the Marchioness of Jedburgh, "do let Mr. Podgers stay here a little longer. He has just told me I should go on the stage, and I am so interested."

"If he has told you that, Lady Jedburgh, I shall certainly take him away. Come over at once, Mr. Podgers, and read Lord Arthur's hand."

"Well," said Lady Jedburgh, making a little *moue* as she rose from the sofa, "if I am not to be allowed to go on the stage, I must be allowed to be part of the audience at any rate."

"Of course; we are all going to be part of the audience," said Lady Windermere; "and now, Mr. Podgers, be sure and tell us something nice. Lord Arthur is one of my special favourites."

But when Mr. Podgers saw Lord Arthur's hand he grew curiously pale, and said nothing. A shudder seemed to pass through him, and his great bushy eyebrows twitched convulsively, in an odd, irritating way they had when he was puzzled. Then some huge beads of perspiration broke out on his yellow forehead, like a poisonous dew, and his fat fingers grew cold and clammy.

Lord Arthur did not fail to notice these strange signs of agitation, and, for the first time in his life, he himself felt fear. His impulse was to rush from the room, but he restrained himself. It was better to know the worst, whatever it was, than to be left in this hideous uncertainty.

"I am waiting, Mr. Podgers," he said.

"We are all waiting," cried Lady Windermere, in her quick, impatient manner, but the chiromantist made no reply.

"I believe Arthur is going on the stage," said Lady Jedburgh, "and that, after your scolding, Mr. Podgers is afraid to tell him so."

Suddenly Mr. Podgers dropped Lord Arthur's right hand, and seized hold of his left, bending down so low to examine it that the gold rims of his spectacles seemed almost to touch the palm. For a moment his face became a white mask of horror, but he soon recovered his *sang-froid*, and looking up at Lady Windermere, said with a forced smile, "It is the hand of a charming young man."

"Of course it is!" answered Lady Windermere, "but will he be a charming husband? That is what I want to know."

"All charming young men are," said Mr. Podgers.

"I don't think a husband should be too fascinating," murmured Lady Jedburgh pensively, "it is so dangerous."

"My dear child, they never are too fascinating," cried Lady Windermere. "But what I want are details. Details are the only things that interest. What is going to happen to Lord Arthur?"

"Well, within the next few months Lord Arthur will go on a voyage—"

"Oh yes, his honeymoon, of course!"

"And lose a relative."

"Not his sister, I hope?" said Lady Jedburgh, in a piteous tone of voice.

"Certainly not his sister," answered Mr. Podgers, with a deprecating wave of the hand, "a distant relative merely."

"Well, I am dreadfully disappointed," said Lady Windermere. "I have absolutely nothing to tell Sybil to-morrow. No one cares about distant relatives nowadays. They went out of fashion years ago. However, I suppose she had better have a black silk by her; it always does for church, you know. And now let us go to supper. They are sure to have eaten everything up, but we may find some hot soup. François used to make excellent soup once, but he is so agitated about politics at present, that I never feel quite certain about him. I do wish General Boulanger would keep quiet. Duchess, I am sure you are tired?"

"Not at all, dear Gladys," answered the Duchess, waddling towards the door. "I have enjoyed myself immensely, and the chiropodist, I mean the chiromantist, is most interesting. Flora, where can my tortoise-shell fan be? Oh, thank you, Sir Thomas, so much. And my lace shawl, Flora? Oh, thank you, Sir Thomas, very kind, I'm sure"; and the worthy creature finally managed to get downstairs without dropping her scent-bottle more than twice.

All this time Lord Arthur Savile had remained standing by the fireplace, with the same feeling of dread over him, the same sickening sense of coming evil. He smiled sadly at his sister, as she swept past him on Lord Plymdale's arm, looking lovely in her pink brocade and pearls, and he hardly heard Lady Windermere when she called to him to follow her. He thought of Sybil Merton, and the idea that anything could come between them made his eyes dim with tears.

Looking at him, one would have said that Nemesis had stolen the shield of Pallas, and shown him the Gorgon's head. He seemed turned to stone, and his face was like marble in its melancholy. He had lived the delicate and luxurious life of a young man of birth and fortune, a life exquisite in its freedom from sordid care, its beautiful boyish insouciance; and now for the first time he had become conscious of the terrible mystery of Destiny, of the awful meaning of Doom.

How mad and monstrous it all seemed! Could it be that written on his hand, in characters that he could not read himself, but that another could decipher, was some fearful secret of sin, some blood-red sign of crime? Was there no escape possible? Were we no better than chessmen, moved by an unseen power, vessels the potter fashions at his fancy, for honour or for shame? His reason revolted against it, and yet he felt that some tragedy was hanging over him, and that he had been suddenly called upon to bear an intolerable burden. Actors are so fortunate. They can choose whether they will appear in tragedy or in comedy, whether they will suffer or make merry, laugh or shed tears. But in real life it is different. Most men and women are forced to perform parts for which they have no qualifications. Our Guildensterns play Hamlet for us, and our Hamlets have to jest like Prince Hal. The world is a stage, but the play is badly cast.

Suddenly Mr. Podgers entered the room. When he saw Lord Arthur he started, and his coarse, fat face became a sort of greenish-yellow colour. The two men's eyes met, and for a moment there was silence.

"The Duchess has left one of her gloves here, Lord Arthur, and has asked me to bring it to her," said Mr. Podgers finally. "Ah, I see it on the sofa! Good evening."

"Mr. Podgers, I must insist on your giving me a straightforward answer to a question I am going to put to you."

"Another time, Lord Arthur, but the Duchess is anxious. I am afraid I must go."

"You shall not go. The Duchess is in no hurry."

"Ladies should not be kept waiting, Lord Arthur," said Mr. Podgers, with his sickly smile. "The fair sex is apt to be impatient."

Lord Arthur's finely-chiselled lips curled in petulant disdain. The poor Duchess seemed to him of very little importance at that moment. He walked across the room to where Mr. Podgers was standing, and held his hand out.

"Tell me what you saw there," he said. "Tell me the truth. I must know it. I am not a child."

Mr. Podgers's eyes blinked behind his gold-rimmed spectacles, and he moved uneasily from one foot to the other, while his fingers played nervously with a flash watch-chain.

"What makes you think that I saw anything in your hand, Lord Arthur, more than I told you?"

"I know you did, and I insist on your telling me what it was. I will pay you. I will give you a cheque for a hundred pounds."

The green eyes flashed for a moment, and then became dull again.

"Guineas?" said Mr. Podgers at last, in a low voice.

"Certainly. I will send you a cheque to-morrow. What is your club?"

"I have no club. That is to say, not just at present. My address is—, but allow me to give you my card"; and producing a bit of gilt-edge pasteboard from his waistcoat pocket, Mr. Podgers handed it, with a low bow, to Lord Arthur, who read on it, "*Mr. Septimus R. Podgers, Professional Chiromantist, 1030 West Moon Street.*"

"My hours are from ten to four," murmured Mr. Podgers mechanically, "and I make a reduction for families."

"Be quick," cried Lord Arthur, looking very pale, and holding his hand out.

Mr. Podgers glanced nervously round, and drew the heavy *portiere*⁴ across the door.

"It will take a little time, Lord Arthur, you had better sit down."

"Be quick, sir," cried Lord Arthur again, stamping his foot angrily on the polished floor.

Mr. Podgers smiled, drew from his breast-pocket a small magnifying glass, and wiped it carefully with his handkerchief.

"I am quite ready," he said.

2

Ten minutes later, with face blanched by terror, and eyes wild with grief, Lord Arthur Savile rushed from Bentinck House, crushing his way

4. Curtain.

through the crowd of fur-coated footmen that stood round the large striped awning, and seeming not to see or hear anything. The night was bitter cold, and the gas-lamps round the square flared and flickered in the keen wind; but his hands were hot with fever, and his forehead burned like fire. On and on he went, almost with the gait of a drunken man. A policeman looked curiously at him as he passed, and a beggar, who slouched from an archway to ask for alms, grew frightened, seeing misery greater than his own. Once he stopped under a lamp, and looked at his hands. He thought he could detect the stain of blood already upon them, and a faint cry broke from his trembling lips.

Murder! that is what the chiromantist had seen there. Murder! The very night seemed to know it, and the desolate wind to howl it in his ear. The dark corners of the streets were full of it. It grinned at him from the roofs of the houses.

First he came to the Park, whose sombre woodland seemed to fascinate him. He leaned wearily up against the railings, cooling his brow against the wet metal, and listening to the tremulous silence of the trees. "Murder! murder!" he kept repeating, as though iteration could dim the horror of the word. The sound of his own voice made him shudder, yet he almost hoped that Echo might hear him, and wake the slumbering city from its dreams. He felt a mad desire to stop the casual passer-by, and tell him everything.

Then he wandered across Oxford Street into narrow, shameful alleys. Two women with painted faces mocked at him as he went by. From a dark courtyard came a sound of oaths and blows, followed by shrill screams, and, huddled upon a damp door-step, he saw the crooked-back forms of poverty and eld. A strange pity came over him. Were these children of sin and misery predestined to their end, as he to his? Were they, like him, merely the puppets of a monstrous show?

And yet it was not the mystery, but the comedy of suffering that struck him; its absolute uselessness, its grotesque want of meaning. How incoherent everything seemed! How lacking in all harmony! He was amazed at the discord between the shallow optimism of the day, and the real facts of existence. He was still very young.

After a time he found himself in front of Marylebone Church. The silent roadway looked like a long riband of polished silver, flecked here

and there by the dark arabesques of waving shadows. Far into the distance curved the line of flickering gas-lamps, and outside a little walled-in house stood a solitary hansom, the driver asleep inside. He walked hastily in the direction of Portland Place, now and then looking round, as though he feared that he was being followed. At the corner of Rich Street stood two men, reading a small bill upon a hoarding. An odd feeling of curiosity stirred him, and he crossed over. As he came near, the word 'Murder,' printed in black letters, met his eye. He started, and a deep flush came into his cheek. It was an advertisement offering a reward for any information leading to the arrest of a man of medium height, between thirty and forty years of age, wearing a billycock hat, a black coat, and check trousers, and with a scar upon his right cheek. He read it over and over again, and wondered if the wretched man would be caught, and how he had been scarred. Perhaps, some day, his own name might be placarded on the walls of London. Some day, perhaps, a price would be set on his head also.

The thought make him sick with horror. He turned on his heel, and hurried into the night.

Where he went he hardly knew. He had a dim memory of wandering through a labyrinth of sordid houses, and it was bright dawn when he found himself at last in Piccadilly Circus. As he strolled home towards Belgrave Square, he met the great waggons on their way to Covent Garden. The white-smocked carters, with their pleasant sunburnt faces and coarse curly hair, strode sturdily on, cracking their whips, and calling out now and then to each other; on the back of a huge grey horse, the leader of a jangling team, sat a chubby boy, with a bunch of primroses in his battered hat, keeping tight hold of the mane with his little hands, and laughing; and the great piles of vegetables looked like masses of jade against the morning sky, like masses of green jade against the pink petals of some marvellous rose. Lord Arthur felt curiously affected, he could not tell why. There was something in the dawn's delicate loveliness that seemed to him inexpressibly pathetic, and he thought of all the days that break in beauty, and that set in storm. These rustics, too, with their rough, good-humoured voices, and their nonchalant ways, what a strange London they saw! A London free from the sin of night and the smoke of day, a pallid, ghost-like city, a desolate town of tombs! He wondered what they thought of it, and whether they knew

anything of its splendour and its shame, of its fierce, fiery-coloured joys, and its horrible hunger, of all it makes and mars from morn to eve. Probably it was to them merely a mart where they brought their fruit to sell, and where they tarried for a few hours at most, leaving the streets still silent, the houses still asleep. It gave him pleasure to watch them as they went by. Rude as they were, with their heavy, hob-nailed shoes, and their awkward gait, they brought a little of Arcady with them. He felt that they had lived with Nature, and that she had taught them peace. He envied them all that they did not know.

By the time he had reached Belgrave Square the sky was a faint blue, and the birds were beginning to twitter in the gardens.

3

When Lord Arthur woke it was twelve o'clock, and the midday sun was streaming through the ivory-silk curtains of his room. He got up and looked out of the window. A dim haze of heat was hanging over the great city, and the roofs of the houses were like dull silver. In the flickering green of the square below some children were flitting about like white butterflies, and the pavement was crowded with people on their way to the Park. Never had life seemed lovelier to him, never had the things of evil seemed more remote.

Then his valet brought him a cup of chocolate on a tray. After he had drunk it, he drew aside a heavy *portiere* of peach-coloured plush, and passed into the bathroom. The light stole softly from above, through thin slabs of transparent onyx, and the water in the marble tank glimmered like a moonstone. He plunged hastily in, till the cool ripples touched throat and hair, and then dipped his head right under, as though he would have wiped away the stain of some shameful memory. When he stepped out he felt almost at peace. The exquisite physical conditions of the moment had dominated him, as indeed often happens in the case of very finely-wrought natures, for the senses, like fire, can purify as well as destroy.

After breakfast, he flung himself down on a divan and lit a cigarette. On the mantel-shelf, framed in dainty old brocade, stood a large photograph of Sybil Merton, as he had seen her first at Lady Noel's ball. The small, exquisitely-shaped head drooped slightly to one side, as though the thin, reed-like throat could hardly bear the burden of so

much beauty; the lips were slightly parted, and seemed made for sweet music; and all the tender purity of girlhood looked out in wonder from the dreaming eyes. With her soft, clinging dress of *crêpe de chine*, and her large leaf-shaped fan, she looked like one of those delicate little figures men find in the olive-woods near Tanagra; and there was a touch of Greek grace in her pose and attitude. Yet she was not *petite*. She was simply perfectly proportioned—a rare thing in an age when so many women are either over life-size or insignificant.

Now as Lord Arthur looked at her, he was filled with the terrible pity that is born of love. He felt that to marry her, with the doom of murder hanging over his head, would be a betrayal like that of Judas, a sin worse than any the Borgia had ever dreamed of. What happiness could there be for them, when at any moment he might be called upon to carry out the awful prophecy written in his hand? What manner of life would be theirs while Fate still held this fearful fortune in the scales? The marriage must be postponed, at all costs. Of this he was quite resolved. Ardently though he loved the girl, and the mere touch of her fingers, when they sat together, made each nerve of his body thrill with exquisite joy, he recognised none the less clearly where his duty lay, and was fully conscious of the fact that he had no right to marry until he had committed the murder. This done, he could stand before the altar with Sybil Merton, and give his life into her hands without terror of wrong-doing. This done, he could take her to his arms, knowing that she would never have to blush for him, never have to hang her head in shame. But done it must be first; and the sooner the better for both.

Many men in his position would have preferred the primrose path of dalliance to the steep heights of duty; but Lord Arthur was too conscientious to set pleasure above principle. There was more than mere passion in his love; and Sybil was to him a symbol of all that is good and noble. For a moment he had a natural repugnance against what he was asked to do, but it soon passed away. His heart told him that it was not a sin, but a sacrifice; his reason reminded him that there was no other course open. He had to choose between living for himself and living for others, and terrible though the task laid upon him undoubtedly was, yet he knew that he must not suffer selfishness to triumph over love. Sooner or later we are all called upon to decide on the same issue—of us all the same question is asked. To Lord Arthur it came

early in life—before his nature had been spoiled by the calculating cynicism of middle-age, or his heart corroded by the shallow, fashionable egotism of our day, and he felt no hesitation about doing his duty. Fortunately also, for him, he was no mere dreamer, or idle dilettante. Had he been so, he would have hesitated, like Hamlet, and let irresolution mar his purpose. But he was essentially practical. Life to him meant action, rather than thought. He had that rarest of all things, common sense.

The wild, turbid feelings of the previous night had by this time completely passed away, and it was almost with a sense of shame that he looked back upon his mad wanderings from street to street, his fierce emotional agony. The very sincerity of his sufferings made them seem unreal to him now. He wondered how he could have been so foolish as to rant and rave about the inevitable. The only question that seemed to trouble him was, whom to make away with; for he was not blind to the fact that murder, like the religions of the Pagan world, requires a victim as well as a priest. Not being a genius, he had no enemies, and indeed he felt that this was not the time for the gratification of any personal pique or dislike, the mission in which he was engaged being one of great and grave solemnity. He accordingly made out a list of his friends and relatives on a sheet of notepaper, and after careful consideration, decided in favour of Lady Clementina Beauchamp, a dear old lady who lived in Curzon Street, and was his own second cousin by his mother's side. He had always been very fond of Lady Clem, as every one called her, and as he was very wealthy himself, having come into all Lord Rugby's property when he came of age, there was no possibility of his deriving any vulgar monetary advantage by her death. In fact, the more he thought over the matter, the more she seemed to him to be just the right person, and, feeling that any delay would be unfair to Sybil, he determined to make his arrangements at once.

The first thing to be done was, of course, to settle with the chiromantist; so he sat down at a small Sheraton writing-table that stood near the window, drew a cheque for £105, payable to the order of Mr. Septimus Podgers, and, enclosing it in an envelope, told his valet to take it to West Moon Street. He then telephoned to the stables for his hansom, and dressed to go out. As he was leaving the room he

looked back at Sybil Merton's photograph, and swore that, come what may, he would never let her know what he was doing for her sake, but would keep the secret of his self-sacrifice hidden always in his heart.

On his way to the Buckingham, he stopped at a florist's, and sent Sybil a beautiful basket of narcissi, with lovely white petals and staring pheasants' eyes, and on arriving at the club went straight to the library, rang the bell, and ordered the waiter to bring him a lemon-and-soda, and a book on Toxicology. He had fully decided that poison was the best means to adopt in this troublesome business. Anything like personal violence was extremely distasteful to him, and besides, he was very anxious not to murder Lady Clementina in any way that might attract attention, as he hated the idea of being lionised at Lady Windermere's, or seeing his name figuring in the paragraphs of vulgar society-newspapers. He had also to think of Sybil's father and mother, who were rather old-fashioned people, and might possibly object to the marriage if there was anything like a scandal, though he felt certain that if he told them the whole facts of the case they would be the very first to appreciate the motives that had actuated him. He had every reason, then, to decide in favour of poison. It was safe, sure, and quiet, and did away with any necessity for painful scenes, to which, like most Englishmen, he had a rooted objection.

Of the science of poisons, however, he knew absolutely nothing, and as the waiter seemed quite unable to find anything in the library but *Ruff's Guide* and *Bailey's Magazine* he examined the book-shelves himself, and finally came across a handsomely-bound edition of the *Pharmacopœia*, and a copy of Erskine's *Toxicology*, edited by Sir Mathew Reid, the President of the Royal College of Physicians, and one of the oldest members of the Buckingham, having been elected in mistake for somebody else; a *contretemps* that so enraged the Committee, that when the real man came up they black-balled him unanimously. Lord Arthur was a good deal puzzled at the technical terms used in both books, and had begun to regret that he had not paid more attention to his classics at Oxford, when in the second volume of Erskine, he found a very interesting and complete account of the properties of aconitine, written in fairly clear English. It seemed to him to be exactly the poison he wanted. It was swift—indeed, almost immediate, in its effect—perfectly painless, and when taken in the form of a gelatine capsule, the

mode recommended by Sir Mathew, not by any means unpalatable. He accordingly made a note, upon his shirt-cuff, of the amount necessary for a fatal dose, put the books back in their places, and strolled up St. James's Street, to Pestle and Humbey's, the great chemists. Mr. Pestle, who always attended personally on the aristocracy, was a good deal surprised at the order, and in a very deferential manner murmured something about a medical certificate being necessary. However, as soon as Lord Arthur explained to him that it was for a large Norwegian mastiff that he was obliged to get rid of, as it showed signs of incipient rabies, and had already bitten the coachman twice in the calf of the leg, he expressed himself as being perfectly satisfied, complimented Lord Arthur on his wonderful knowledge of Toxicology, and had the prescription made up immediately.

Lord Arthur put the capsule into a pretty little silver *bonbonniere*⁵ that he saw in a shop window on Bond Street, threw away Pestle and Humbey's ugly pill-box, and drove off at once to Lady Clementina's.

"Well, *monsieur le mauvais sujet*⁶," cried the old lady, as he entered the room, "why haven't you been to see me all this time?"

"My dear Lady Clem, I never have a moment to myself," said Lord Arthur smiling.

"I suppose you mean that you go about all day long with Miss Sybil Merton, buying *chiffons* and talking nonsense? I cannot understand why people make such a fuss about being married. In my day we never dreamed of billing and cooing in public, or in private for that matter."

"I assure you I have not seen Sybil for twenty-four hours, Lady Clem. As far as I can make out, she belongs entirely to her milliners."

"Of course; that is the only reason you come to see an ugly old woman like myself. I wonder you men don't take warning. *On a fait des folies pour moi*,⁷ and here I am, a poor rheumatic creature, with a false front and a bad temper. Why, if it were not for dear Lady Jansen, who sends me all the worst French novels she can find, I don't think I could get through the day. Doctors are no use at all, except to get fees out of one. They can't even cure my heartburn."

5. Chocolate box.

6. You naughty fellow.

7. Follies have been committed for my sake.

"I have brought you a cure for that, Lady Clem," said Lord Arthur gravely. "It is a wonderful thing, invented by an American."

"I don't think I like American inventions, Arthur. I am quite sure I don't. I read some American novels lately, and they were quite nonsensical."

"Oh, but there is no nonsense at all about this, Lady Clem! I assure you it is a perfect cure. You must promise to try it"; and Lord Arthur brought the little box out of his pocket, and handed it to her.

"Well, the box is charming, Arthur. Is it really a present? That is very sweet of you. And is this the wonderful medicine? It looks like a *bonbon*. I'll take it at once."

"Good heavens! Lady Clem," cried Lord Arthur, catching hold of her hand, "you mustn't do anything of the kind. It is a homœopathic medicine, and if you take it without having heartburn, it might do you no end of harm. Wait till you have an attack, and take it then. You will be astonished at the result."

"I should like to take it now," said Lady Clementina, holding up to the light the little transparent capsule, with its floating bubble of liquid aconitine. "I am sure it is delicious. The fact is that, though I hate doctors, I love medicines. However, I'll keep it till my next attack."

"And when will that be?" asked Lord Arthur eagerly. "Will it be soon?"

"I hope not for a week. I had a very bad time yesterday morning with it. But one never knows."

"You are sure to have one before the end of the month then, Lady Clem?"

"I am afraid so. But how sympathetic you are to-day, Arthur! Really, Sybil has done you a great deal of good. And now you must run away, for I am dining with some very dull people, who won't talk scandal, and I know that if I don't get my sleep now I shall never be able to keep awake during dinner. Good-bye, Arthur, give my love to Sybil, and thank you so much for the American medicine."

"You won't forget to take it, Lady Clem, will you?" said Lord Arthur, rising from his seat.

"Of course I won't, you silly boy. I think it is most kind of you to think of me, and I shall write and tell you if I want any more."

Lord Arthur left the house in high spirits, and with a feeling of immense relief.

That night he had an interview with Sybil Merton. He told her how he had been suddenly placed in a position of terrible difficulty, from which neither honour nor duty would allow him to recede. He told her that the marriage must be put off for the present, as until he had got rid of his fearful entanglements, he was not a free man. He implored her to trust him, and not to have any doubts about the future. Everything would come right, but patience was necessary.

The scene took place in the conservatory of Mr. Merton's house, in Park Lane, where Lord Arthur had dined as usual. Sybil had never seemed more happy, and for a moment Lord Arthur had been tempted to play the coward's part, to write to Lady Clementina for the pill, and to let the marriage go on as if there was no such person as Mr. Podgers in the world. His better nature, however, soon asserted itself, and even when Sybil flung herself weeping into his arms, he did not falter. The beauty that stirred his senses had touched his conscience also. He felt that to wreck so fair a life for the sake of a few months' pleasure would be a wrong thing to do.

He stayed with Sybil till nearly midnight, comforting her and being comforted in turn, and early the next morning he left for Venice, after writing a manly, firm letter to Mr. Merton about the necessary postponement of the marriage.

4

In Venice he met his brother, Lord Surbiton, who happened to have come over from Corfu in his yacht. The two young men spent a delightful fortnight together. In the morning they rode on the Lido, or glided up and down the green canal in their long black gondola; in the afternoon they usually entertained visitors on the yacht; and in the evening they dined at Florian's, and smoked innumerable cigarettes on the Piazza. Yet somehow Lord Arthur was not happy. Every day he studied the obituary column in the *Times*, expecting to see a notice of Lady Clementina's death, but every day he was disappointed. He began to be afraid that some accident had happened to her, and often

regretted that he had prevented her taking the aconitine when she had been so anxious to try its effect. Sybil's letters, too, though full of love, and trust, and tenderness, were often very sad in their tone, and sometimes he used to think that he was parted from her for ever.

After a fortnight Lord Surbiton got bored with Venice, and determined to run down the coast to Ravenna, as he heard that there was some capital cock-shooting in the Pinetum. Lord Arthur at first refused absolutely to come, but Surbiton, of whom he was extremely fond, finally persuaded him that if he stayed at Danielli's by himself he would be moped to death, and on the morning of the 15th they started, with a strong nor'east wind blowing, and a rather choppy sea. The sport was excellent, and the free, open-air life brought the colour back to Lord Arthur's cheek, but about the 22nd he became anxious about Lady Clementina, and, in spite of Surbiton's remonstrances, came back to Venice by train.

As he stepped out of his gondola on to the hotel steps, the proprietor came forward to meet him with a sheaf of telegrams. Lord Arthur snatched them out of his hand, and tore them open. Everything had been quite successful. Lady Clementina had died quite suddenly on the night of the 17th!

His first thought was for Sybil, and he sent her off a telegram announcing his immediate return to London. He then ordered his valet to pack his things for the night mail, sent his gondoliers about five times their proper fare, and ran up to his sitting-room with a light step and a buoyant heart. There he found three letters waiting for him. One was from Sybil herself, full of sympathy and condolence. The others were from his mother, and from Lady Clementina's solicitor. It seemed that the old lady had dined with the Duchess that very night, had delighted every one by her wit and *esprit*, but had gone home somewhat early, complaining of heartburn. In the morning she was found dead in her bed, having apparently suffered no pain. Sir Mathew Reid had been sent for at once, but, of course, there was nothing to be done, and she was to be buried on the 22nd at Beauchamp Chalcote. A few days before she died she had made her will, and left Lord Arthur her little house in Curzon Street, and all her furniture, personal effects, and pictures, with the exception of her collection of miniatures, which was to go to her sister, Lady Margaret Rufford, and her amethyst necklace,

which Sybil Merton was to have. The property was not of much value; but Mr. Mansfield, the solicitor, was extremely anxious for Lord Arthur to return at once, if possible, as there were a great many bills to be paid, and Lady Clementina had never kept any regular accounts.

Lord Arthur was very much touched by Lady Clementina's kind remembrance of him, and felt that Mr. Podgers had a great deal to answer for. His love of Sybil, however, dominated every other emotion, and the consciousness that he had done his duty gave him peace and comfort. When he arrived at Charing Cross, he felt perfectly happy.

The Mertons received him very kindly. Sybil made him promise that he would never again allow anything to come between them, and the marriage was fixed for the 7th June. Life seemed to him once more bright and beautiful, and all his old gladness came back to him again.

One day, however, as he was going over the house in Curzon Street, in company with Lady Clementina's solicitor and Sybil herself, burning packages of faded letters and turning out drawers of odd rubbish, the young girl suddenly gave a cry of delight.

"What have you found, Sybil?" said Lord Arthur, looking up from his work, and smiling.

"This lovely little silver *bonbonnière*, Arthur. Isn't it quaint and Dutch? Do give it to me! I know amethysts won't become me till I am over eighty."

It was the box that had held the aconitine.

Lord Arthur started, and a faint blush came into his cheek. He had almost entirely forgotten what he had done, and it seemed to him a curious coincidence that Sybil, for whose sake he had gone through all that terrible anxiety, should have been the first to remind him of it.

"Of course you can have it, Sybil. I gave it to poor Lady Clem myself."

"Oh! thank you, Arthur; and may I have the *bonbon* too? I had no notion that Lady Clementina liked sweets. I thought she was far too intellectual."

Lord Arthur grew deadly pale, and a horrible idea crossed his mind.

"*Bonbon*, Sybil? What do you mean?" he said in a slow, hoarse voice.

"There is one in it, that is all. It looks quite old and dusty, and I have not the slightest intention of eating it. What is the matter, Arthur? How white you look!"

Lord Arthur rushed across the room, and seized the box. Inside it was the amber-coloured capsule, with its poison-bubble. Lady Clementina had died a natural death after all!

The shock of the discovery was almost too much for him. He flung the capsule into the fire, and sank on the sofa with a cry of despair.

5

Mr. Merton was a good deal distressed at the second postponement of the marriage, and Lady Julia, who had already ordered her dress for the wedding, did all in her power to make Sybil break off the match. Dearly, however, as Sybil loved her mother, she had given her whole life into Lord Arthur's hands, and nothing that Lady Julia could say could make her waiver in her faith. As for Lord Arthur himself, it took him days to get over his terrible disappointment, and for a time his nerves were completely unstrung. His excellent common sense, however, soon asserted itself, and his sound, practical mind did not leave him long in doubt about what to do. Poison having proved a complete failure, dynamite, or some other form of explosive, was obviously the proper thing to try.

He accordingly looked again over the list of his friends and relatives, and, after careful consideration, determined to blow up his uncle, the Dean of Chichester. The Dean, who was a man of great culture and learning, was extremely fond of clocks, and had a wonderful collection of timepieces, ranging from the fifteenth century to the present day, and it seemed to Lord Arthur that this hobby of the good Dean's offered him an excellent opportunity for carrying out his scheme. Where to procure an explosive machine was, of course, quite another matter. The London Directory gave him no information on the point, and he felt that there was very little use in going to Scotland Yard about it, as they never seemed to know anything about the movements of the dynamite faction till after an explosion had taken place, and not much even then.

Suddenly he thought of his friend Rouvaloff, a young Russian of very revolutionary tendencies, whom he had met at Lady Windermere's in the winter. Count Rouvaloff was supposed to be writing a life of Peter the Great, and to have come over to England for the purpose of studying the documents relating to that Tsar's residence in this country as a ship carpenter; but it was generally suspected that he was a Nihilist agent, and there was no doubt that the Russian Embassy did not look with any favour upon his presence in London. Lord Arthur felt that he was just the man for his purpose, and drove down one morning to his lodgings in Bloomsbury, to ask his advice and assistance.

"So you are taking up politics seriously?" said Count Rouvaloff, when Lord Arthur had told him the object of his mission; but Lord Arthur, who hated swagger of any kind, felt bound to admit to him that he had not the slightest interest in social questions, and simply wanted the explosive machine for a purely family matter, in which no one was concerned but himself.

Count Rouvaloff looked at him for some moments in amazement, and then seeing that he was quite serious, wrote an address on a piece of paper, initialled it, and handed it to him across the table.

"Scotland Yard would give a good deal to know this address, my dear fellow."

"They shan't have it," cried Lord Arthur, laughing; and after shaking the young Russian warmly by the hand he ran downstairs, examined the paper, and told the coachman to drive to Soho Square.

There he dismissed him, and strolled down Greek Street, till he came to a place called Bayle's Court. He passed under the archway, and found himself in a curious *cul-de-sac*, that was apparently occupied by a French laundry, as a perfect network of clothes-lines was stretched across from house to house, and there was a flutter of white linen in the morning air. He walked right to the end, and knocked at a little green house. After some delay, during which every window became a blurred mass of peering faces, the door was opened by a rather rough-looking foreigner, who asked him in very bad English what his business was. Lord Arthur handed him the paper Count Rouvaloff had given him. When the man saw it he bowed, and invited Lord Arthur into a very shabby front parlour on the ground floor, and in a few moments Herr

Winckelkopf, as he was called in England, bustled into the room, with a very wine-stained napkin round his neck, and a fork in his left hand.

"Count Rouvaloff has given me an introduction to you," said Lord Arthur, bowing, "and I am anxious to have a short interview with you on a matter of business. My name is Smith, Mr. Robert Smith, and I want you to supply me with an explosive clock."

"Charmed to meet you, Lord Arthur," said the genial little German, laughing. "Don't look so alarmed, it is my duty to know everybody, and I remember seeing you one evening at Lady Windermere's. I hope her ladyship is quite well! Do you mind sitting with me while I finish my breakfast? There is an excellent pat  , and my friends are kind enough to say that my Rhine wine is better than any they get at the German Embassy," and before Lord Arthur had got over his surprise at being recognised, he found himself seated in the back-room, sipping the most delicious Marcobr  nner out of a pale yellow hock-glass marked with the Imperial monogram, and chatting in the friendliest manner possible to the famous conspirator.

"Explosive clocks," said Herr Winckelkopf, "are not very good things for foreign exportation, as, even if they succeeded in passing the Custom House, the train service is so irregular, that they usually go off before they have reached their proper destination. If, however, you want one for home use, I can supply you with an excellent article, and guarantee that you will be satisfied with the result. May I ask for whom it is intended? If it is for the police, or for any one connected with Scotland Yard, I am afraid I cannot do anything for you. The English detectives are really our best friends, and I have always found that by relying on their stupidity, we can do exactly what we like. I could not spare one of them."

"I assure you," said Lord Arthur, "that it has nothing to do with the police at all. In fact, the clock is intended for the Dean of Chichester."

"Dear me! I had no idea that you felt so strongly about religion, Lord Arthur. Few young men do nowadays."

"I am afraid you overrate me, Herr Winckelkopf," said Lord Arthur, blushing. "The fact is, I really know nothing about theology."

"It is a purely private matter then?"

"Purely private."

Herr Winckelkopf shrugged his shoulders, and left the room, returning in a few minutes with a round cake of dynamite about the size of a penny, and a pretty little French clock, surmounted by an ormolu figure of Liberty trampling on the hydra of Despotism.

Lord Arthur's face brightened up when he saw it. "That is just what I want," he cried, "and now tell me how it goes off."

"Ah! there is my secret," answered Herr Winckelkopf, contemplating his invention with a justifiable look of pride; "let me know when you wish it to explode, and I will set the machine to the moment."

"Well, to-day is Tuesday, and if you could send it off at once—"

"That is impossible; I have a great deal of important work on hand for some friends of mine in Moscow. Still, I might send it off to-morrow."

"Oh, it will be quite time enough!" said Lord Arthur politely, "if it is delivered to-morrow night or Thursday morning. For the moment of the explosion, say Friday at noon exactly. The Dean is always at home at that hour."

"Friday, at noon," repeated Herr Winckelkopf, and he made a note to that effect in a large ledger that was lying on a bureau near the fireplace.

"And now," said Lord Arthur, rising from his seat, "pray let me know how much I am in your debt."

"It is such a small matter, Lord Arthur, that I do not care to make any charge. The dynamite comes to seven and six-pence, the clock will be three pounds ten, and the carriage about five shillings. I am only too pleased to oblige any friend of Count Rouvaloff's."

"But your trouble, Herr Winckelkopf?"

"Oh, that is nothing! It is a pleasure to me. I do not work for money; I live entirely for my art."

Lord Arthur laid down £4 2s. 6d. on the table, thanked the little German for his kindness, and, having succeeded in declining an invitation to meet some Anarchists at a meat-tea on the following Saturday, left the house and went off to the Park.

For the next two days he was in a state of the greatest excitement, and on Friday at twelve o'clock he drove down to the Buckingham to wait for news. All the afternoon the stolid hall-porter kept posting up telegrams from various parts of the country giving the results of horse-races, the verdicts in divorce suits, the state of the weather, and the like, while the tape ticked out wearisome details about an all-night sitting in the House of Commons, and a small panic on the Stock Exchange. At four o'clock the evening papers came in, and Lord Arthur disappeared into the library with the *Pall Mall*, the *St. James's*, the *Globe*, and the *Echo*, to the immense indignation of Colonel Goodchild, who wanted to read the reports of a speech he had delivered that morning at the Mansion House, on the subject of South African Missions, and the advisability of having black Bishops in every province, and for some reason or other had a strong prejudice against the *Evening News*. None of the papers, however, contained even the slightest allusion to Chichester, and Lord Arthur felt that the attempt must have failed. It was a terrible blow to him, and for a time he was quite unnerved. Herr Winckelkopf, whom he went to see the next day, was full of elaborate apologies, and offered to supply him with another clock free of charge, or with a case of nitro-glycerine bombs at cost price. But he had lost all faith in explosives, and Herr Winckelkopf himself acknowledged that everything is so adulterated nowadays, that even dynamite can hardly be got in a pure condition. The little German, however, while admitting that something must have gone wrong with the machinery, was not without hope that the clock might still go off, and instanced the case of a barometer that he had once sent to the military Governor at Odessa, which, though timed to explode in ten days, had not done so for something like three months. It was quite true that when it did go off, it merely succeeded in blowing a housemaid to atoms, the Governor having gone out of town six weeks before, but at least it showed that dynamite, as a destructive force, was, when under the control of machinery, a powerful, though somewhat unpunctual agent. Lord Arthur was a little consoled by this reflection, but even here he was destined to disappointment, for two days afterwards, as he was going upstairs, the Duchess called him into her boudoir, and showed him a letter she had just received from the Deanery.

"Jane writes charming letters," said the Duchess; "you must really read her last. It is quite as good as the novels Mudie sends us."

Lord Arthur seized the letter from her hand. It ran as follows:—

THE DEANERY, CHICHESTER,
27th May.

My dearest Aunt,

Thank you so much for the flannel for the Dorcas Society, and also for the gingham. I quite agree with you that it is nonsense their wanting to wear pretty things, but everybody is so Radical and irreligious nowadays, that it is difficult to make them see that they should not try and dress like the upper classes. I am sure I don't know what we are coming to. As papa has often said in his sermons, we live in an age of unbelief.

We have had great fun over a clock that an unknown admirer sent papa last Thursday. It arrived in a wooden box from London, carriage paid; and papa feels it must have been sent by some one who had read his remarkable sermon, "Is License Liberty?" for on the top of the clock was a figure of a woman, with what Papa said was the cap of Liberty on her head. I don't think it very becoming myself, but papa said it was historical, so I suppose it is all right. Parker unpacked it, and papa put it on the mantelpiece in the library, and we were all sitting there on Friday morning, when just as the clock struck twelve, we heard a whirring noise, a little puff of smoke came from the pedestal of the figure, and the goddess of Liberty fell off, and broke her nose on the fender! Maria was quite alarmed, but it looked so ridiculous, that James and I went off into fits of laughter, and even papa was amused. When we examined it, we found it was a sort of alarm clock, and that, if you set it to a particular hour, and put some gunpowder and a cap under a little hammer, it went off whenever you wanted. Papa said it must not remain in the library, as it made a noise, so Reggie carried it away to the schoolroom, and does nothing but have small explosions all day long. Do you think Arthur would like one for a wedding present? I suppose they are quite fashionable in London. Papa says they should do a great deal of good, as they show that Liberty can't last, but must fall down. Papa says Liberty was invented at the time of the French Revolution. How awful it seems!

I have now to go to the Dorcas, where I will read your most

instructive letter. How true, dear aunt, your idea is, that in their rank of life they should wear what is unbecoming. I must say it is absurd, their anxiety about dress, when there are so many more important things in this world, and in the next. I am so glad your flowered poplin turned out so well, and that your lace was not torn. I am wearing my yellow satin, that you so kindly gave me, at the Bishop's on Wednesday, and think it will look all right. Would you have bows or not? Jennings says that every one wears bows now, and that the underskirt should be frilled. Reggie has just had another explosion, and papa has ordered the clock to be sent to the stables. I don't think papa likes it so much as he did at first, though he is very flattered at being sent such a pretty and ingenious toy. It shows that people read his sermons, and profit by them.

Papa sends his love, in which James, and Reggie, and Maria all unite, and, hoping that Uncle Cecil's gout is better, believe me, dear aunt, ever your affectionate niece,

Jane Percy.

PS.—Do tell me about the bows. Jennings insists they are the fashion.

Lord Arthur looked so serious and unhappy over the letter, that the Duchess went into fits of laughter.

"My dear Arthur," she cried, "I shall never show you a young lady's letter again! But what shall I say about the clock? I think it is a capital invention, and I should like to have one myself."

"I don't think much of them," said Lord Arthur, with a sad smile, and, after kissing his mother, he left the room.

When he got upstairs, he flung himself on a sofa, and his eyes filled with tears. He had done his best to commit this murder, but on both occasions he had failed, and through no fault of his own. He had tried to do his duty, but it seemed as if Destiny herself had turned traitor. He was oppressed with the sense of the barrenness of good intentions, of the futility of trying to be fine. Perhaps it would be better to break off the marriage altogether. Sybil would suffer, it is true, but suffering could not really mar a nature so noble as hers. As for himself, what did it matter? There is always some war in which a man can die, some cause to which a man can give his life, and as life had no pleasure

for him, so death had no terror. Let Destiny work out his doom. He would not stir to help her.

At half-past seven he dressed, and went down to the club. Surbiton was there with a party of young men, and he was obliged to dine with them. Their trivial conversation and idle jests did not interest him, and as soon as coffee was brought he left them, inventing some engagement in order to get away. As he was going out of the club, the hall-porter handed him a letter. It was from Herr Winckelkopf, asking him to call down the next evening, and look at an explosive umbrella, that went off as soon as it was opened. It was the very latest invention, and had just arrived from Geneva. He tore the letter up into fragments. He had made up his mind not to try any more experiments. Then he wandered down to the Thames Embankment, and sat for hours by the river. The moon peered through a mane of tawny clouds, as if it were a lion's eye, and innumerable stars spangled the hollow vault, like gold dust powdered on a purple dome. Now and then a barge swung out into the turbid stream, and floated away with the tide, and the railway signals changed from green to scarlet as the trains ran shrieking across the bridge. After some time, twelve o'clock boomed from the tall tower at Westminster, and at each stroke of the sonorous bell the night seemed to tremble. Then the railway lights went out, one solitary lamp left gleaming like a large ruby on a giant mast, and the roar of the city became fainter.

At two o'clock he got up, and strolled towards Blackfriars. How unreal everything looked! How like a strange dream! The houses on the other side of the river seemed built out of darkness. One would have said that silver and shadow had fashioned the world anew. The huge dome of St. Paul's loomed like a bubble through the dusky air.

As he approached Cleopatra's Needle he saw a man leaning over the parapet, and as he came nearer the man looked up, the gas-light falling full upon his face.

It was Mr. Podgers, the chiromantist! No one could mistake the fat, flabby face, the gold-rimmed spectacles, the sickly feeble smile, the sensual mouth.

Lord Arthur stopped. A brilliant idea flashed across him, and he stole softly up behind. In a moment he had seized Mr. Podgers by

the legs, and flung him into the Thames. There was a coarse oath, a heavy splash, and all was still. Lord Arthur looked anxiously over, but could see nothing of the chiromantist but a tall hat, pirouetting in an eddy of moonlit water. After a time it also sank, and no trace of Mr. Podgers was visible. Once he thought that he caught sight of the bulky misshapen figure striking out for the staircase by the bridge, and a horrible feeling of failure came over him but it turned out to be merely a reflection, and when the moon shone out from behind a cloud it passed away. At last he seemed to have realized the decree of Destiny. He heaved a deep sigh of relief, and Sybil's name came to his lips.

"Have you dropped anything, sir?" said a voice behind him suddenly.

He turned round, and saw a policeman with a bull's-eye lantern.

"Nothing of importance, sergeant," he answered, smiling, and hailing a passing hansom, he jumped in, and told the man to drive to Belgrave Square.

For the next few days he alternated between hope and fear. There were moments when he almost expected Mr. Podgers to walk into the room, and yet at other times he felt that Fate could not be so unjust to him. Twice he went to the chiromantist's address in West Moon Street, but he could not bring himself to ring the bell. He longed for certainty, and was afraid of it.

Finally it came. He was sitting in the smoking-room of the club having tea, and listening rather wearily to Surbiton's account of the last comic song at the Gaiety, when the waiter came in with the evening papers. He took up the *St. James's*, and was listlessly turning over its pages, when this strange heading caught his eye:

"SUICIDE OF A CHIROMANTIST."

He turned pale with excitement, and began to read. The paragraph ran as follows:

"Yesterday morning, at seven o'clock, the body of Mr. Septimus R. Podgers, the eminent chiromantist, was washed on shore at Greenwich, just in front of the Ship Hotel. The unfortunate gentleman had been missing for some days, and considerable anxiety for his safety had been felt in chiromantic circles. It is supposed that he committed suicide under

the influence of a temporary mental derangement, caused by overwork, and a verdict to that effect was returned this afternoon by the coroner's jury. Mr. Podgers had just completed an elaborate treatise on the subject of the Human Hand, that will shortly be published, when it will no doubt attract much attention. The deceased was sixty-five years of age, and does not seem to have left any relations."

Lord Arthur rushed out of the club with the paper still in his hand, to the immense amazement of the hall-porter, who tried in vain to stop him, and drove at once to Park Lane. Sybil saw him from the window, and something told her that he was the bearer of good news. She ran down to meet him, and, when she saw his face, she knew that all was well.

"My dear Sybil," cried Lord Arthur, "let us be married tomorrow!"

"You foolish boy! Why, the cake is not even ordered!" said Sybil, laughing through her tears.

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When the wedding took place, some three weeks later, St. Peter's was crowded with a perfect mob of smart people. The service was read in the most impressive manner by the Dean of Chichester, and everybody agreed that they had never seen a handsomer couple than the bride and bridegroom. They were more than handsome, however—they were happy. Never for a single moment did Lord Arthur regret all that he had suffered for Sybil's sake, while she, on her side, gave him the best things a woman can give to any man—worship, tenderness, and love. For them romance was not killed by reality. They always felt young.

Some years afterward, when two beautiful children had been born to them, Lady Windermere came down on a visit to Alton Priory, a lovely old place, that had been the Duke's wedding present to his son; and one afternoon as she was sitting with Lady Arthur under a lime-tree in the garden, watching the little boy and girl as they played up and down the rose-walk, like fitful sunbeams, she suddenly took her hostess's hand in hers, and said, "Are you happy, Sybil?"

"Dear Lady Windermere, of course I am happy. Aren't you?"

"I have no time to be happy, Sybil. I always like the last person who is introduced to me; but, as a rule, as soon as I know people I get tired of them."

"Don't your lions satisfy you, Lady Windermere?"

"Oh dear, no! lions are only good for one season. As soon as their manes are cut, they are the dullest creatures going. Besides, they behave very badly, if you are really nice to them. Do you remember that horrid Mr. Podgers? He was a dreadful imposter. Of course, I didn't mind that at all, and even when he wanted to borrow money I forgave him, but I could not stand his making love to me. He has really made me hate chiromancy. I go in for telepathy now. It is much more amusing."

"You mustn't say anything against chiromancy here, Lady Windermere; it is the only subject that Arthur does not like people to chaff about. I assure you he is quite serious over it."

"You don't mean to say that he believes in it, Sybil?"

"Ask him, Lady Windermere, here he is"; and Lord Arthur came up the garden with a large bunch of yellow roses in his hand, and his two children dancing round him.

"Lord Arthur?"

"Yes, Lady Windermere."

"You don't mean to say that you believe in chiromancy?"

"Of course I do," said the young man, smiling.

"But why?"

"Because I owe to it all the happiness of my life," he murmured, throwing himself into a wicker chair.

"My dear Lord Arthur, what do you owe to it?"

"Sybil," he answered, handing his wife the roses, and looking into her violet eyes.

"What nonsense!" cried Lady Windermere. "I never heard such nonsense in all my life."

O. HENRY

THE COP AND THE ANTHEM

William Sidney Porter (1862–1910) became world-famous under the nom-de-plume, O. Henry. The following story—one of O. Henry's best—illustrates in a hilarious way the fact that arrest, ordinarily an unwelcome experience, may sometimes be most desirable: in this instance as a means of finding shelter (in jail) for the cold winter ahead.

ON HIS BENCH in Madison Square Soapy moved uneasily. When wild geese honk high of nights, and when women without sealskin coats grow kind to their husbands, and when Soapy moves uneasily on his bench in the park, you may know that winter is near at hand.

A dead leaf fell in Soapy's lap. That was Jack Frost's card. Jack is kind to the regular denizens of Madison Square, and gives fair warning of his annual call. At the corners of four streets he hands his pasteboard to the North Wind, footman of the mansion of All Outdoors, so that the inhabitants thereof may make ready.

Soapy's mind became cognizant of the fact that the time had come for him to resolve himself into a singular Committee of Ways and Means to provide against the coming rigor. And therefore he moved uneasily on his bench.

The hibernatorial ambitions of Soapy were not of the highest. In them were no considerations of Mediterranean cruises, of soporific Southern skies or drifting in the Vesuvian Bay. Three months on the Island was what his soul craved. Three months of assured board and bed and congenial company, safe from Boreas and bluecoats, seemed to Soapy the essence of things desirable.

For years the hospitable Blackwell's had been his winter quarters. Just as his more fortunate fellow New Yorkers had bought their tickets to Palm Beach and the Riviera each winter, so Soapy had made his humble arrangements for his annual hegira to the Island. And now the time was come. On the previous night three Sabbath newspapers, distributed beneath his coat, about his ankles and over his lap, had failed to repulse the cold as he slept on his bench near the spurting fountain in the ancient square. So the Island loomed big and timely in

Soapy's mind. He scorned the provisions made in the name of charity for the city's dependents. In Soapy's opinion the Law was more benign than Philanthropy. There was an endless round of institutions, municipal and eleemosynary, on which he might set out and receive lodging and food accordant with the simple life. But to one of Soapy's proud spirit the gifts of charity are encumbered. If not in coin you must pay in humiliation of spirit for every benefit received at the hands of philanthropy. As Caesar had his Brutus, every bed of charity must have its toll of a bath, every loaf of bread its compensation of a private and personal inquisition. Wherefore it is better to be a guest of the law, which, though conducted by rules, does not meddle unduly with a gentleman's private affairs.

Soapy, having decided to go to the Island, at once set about accomplishing his desire. There were many easy ways of doing this. The pleasantest was to dine luxuriously at some expensive restaurant; and then, after declaring insolvency, be handed over quietly and without uproar to a policeman. An accommodating magistrate would do the rest.

Soapy left his bench and strolled out of the square and across the level sea of asphalt, where Broadway and Fifth Avenue flow together. Up Broadway he turned, and halted at a glittering café, where are gathered together nightly the choicest products of the grape, the silkworm, and the protoplasm.

Soapy had confidence in himself from the lowest button of his vest upward. He was shaven, and his coat was decent and his neat black, ready-tied four-in-hand had been presented to him by a lady missionary on Thanksgiving Day. If he could reach a table in the restaurant unsuspected success would be his. The portion of him that would show above the table would raise no doubt in the waiter's mind. A roasted mallard duck, thought Soapy, would be about the thing—with a bottle of Chablis, and then Camembert, a demi-tasse and a cigar. One dollar for the cigar would be enough. The total would not be so high as to call forth any supreme manifestation of revenge from the café management; and yet the meat would leave him filled and happy for the journey to his winter refuge.

But as Soapy set foot inside the restaurant door the head waiter's eye fell upon his frayed trousers and decadent shoes. Strong and

ready hands turned him about and conveyed him in silence and haste to the sidewalk and averted the ignoble fate of the menaced mallard.

Soapy turned off Broadway. It seemed that his route to the coveted Island was not to be an epicurean one. Some other way of entering limbo must be thought of.

At a corner of Sixth Avenue electric lights and cunningly displayed wares behind plate-glass made a shop window conspicuous. Soapy took a cobblestone and dashed it through the glass. People came running around the corner, a policeman in the lead. Soapy stood still, with his hands in his pockets, and smiled at the sight of brass buttons.

"Where's the man that done that?" inquired the officer, excitedly.

"Don't you figure out that I might have had something to do with it?" said Soapy, not without sarcasm, but friendly, as one greets good fortune.

The policeman's mind refused to accept Soapy even as a clue. Men who smash windows do not remain to parley with the law's minions. They take to their heels. The policeman saw a man halfway down the block running to catch a car. With drawn club he joined in the pursuit. Soapy, with disgust in his heart, loafed along, twice unsuccessful.

On the opposite side of the street was a restaurant of no great pretensions. It catered to large appetites and modest purses. Its crockery and atmosphere were thick; its soup and napery thin. Into this place Soapy took his accusive shoes and telltale trousers without challenge. At a table he sat and consumed beefsteak, flapjacks, doughnuts and pie. And then to the waiter he betrayed the fact that the minutest coin and himself were strangers.

"Now, get busy and call a cop," said Soapy. "And don't keep a gentleman waiting."

"No cop for youse," said the waiter, with a voice like butter cakes and an eye like the cherry in a Manhattan cocktail. "Hey, Con!"

Neatly upon his left ear on the callous pavement two waiters pitched Soapy. He arose joint by joint, as a carpenter's rule opens, and beat the dust from his clothes. Arrest seemed but a rosy dream. The Island seemed very far away. A policeman who stood before a drug store two doors away laughed and walked down the street.

Five blocks Soapy travelled before his courage permitted him to woo capture again. This time the opportunity presented what he fatuously termed to himself a "cinch." A young woman of a modest and pleasing guise was standing before a show window gazing with sprightly interest at its display of shaving mugs and ink-stands, and two yards from the window a large policeman of severe demeanor leaned against a water plug.

It was Soapy's design to assume the rôle of the despicable and execrated "masher." The refined and elegant appearance of his victim and the contiguity of the conscientious cop encouraged him to believe that he would soon feel the pleasant official clutch upon his arm that would insure his winter quarters on the right little, tight little isle.

Soapy straightened the lady missionary's ready-made tie, dragged his shrinking cuffs into the open, set his hat at a killing cant and sidled toward the young woman. He made eyes at her, was taken with sudden coughs and "hems," smiled, smirked and went brazenly through the impudent and contemptible litany of the "masher." With half an eye Soapy saw that the policeman was watching him fixedly. The young woman moved away a few steps, and again bestowed her absorbed attention upon the shaving mugs. Soapy followed, boldly stepping to her side, raised his hat and said:

"Ah there, Bedelia! Don't you want to come and play in my yard?"

The policeman was still looking. The persecuted young woman had but to beckon a finger and Soapy would be practically enroute for his insular haven. Already he imagined he could feel the cozy warmth of the station-house. The young woman faced him and, stretching out a hand, caught Soapy's coat sleeve.

"Sure, Mike," she said, joyfully, "if you'll blow me to a pail of suds. I'd have spoke to you sooner, but the cop was watching."

With the young woman playing the clinging ivy to his oak Soapy walked past the policeman overcome with gloom. He seemed doomed to liberty.

At the next corner he shook off his companion and ran. He halted in the district where by night are found the lightest streets, hearts, vows and librettos. Women in furs and men in greatcoats moved gaily in the wintry air. A sudden fear seized Soapy that some dreadful enchant-

ment had rendered him immune to arrest. The thought brought a little of panic upon it, and when he came upon another policeman lounging grandly in front of a transplendent theatre he caught at the immediate straw of "disorderly conduct."

On the sidewalk Soapy began to yell drunken gibberish at the top of his harsh voice. He danced, howled, raved, and otherwise disturbed the welkin.

The policeman twirled his club, turned his back to Soapy and remarked to a citizen.

"'Tis one of them Yale lads celebratin' the goose egg they give to the Hartford College. Noisy; but no harm. We've instructions to lave them be."

Disconsolate, Soapy ceased his unavailing racket. Would never a policeman lay hands on him? In his fancy the Island seemed an unattainable Arcadia. He buttoned his thin coat against the chilling wind.

In a cigar store he saw a well-dressed man lighting a cigar at a swinging light. His silk umbrella he had set by the door on entering. Soapy stepped inside, secured the umbrella and sauntered off with it slowly. The man at the cigar light followed hastily.

"My umbrella," he said, sternly.

"Oh, is it?" sneered Soapy, adding insult to petit larceny. "Well, why don't you call a policeman? I took it. Your umbrella! Why don't you call a cop? There stands one on the corner."

The umbrella owner slowed his steps. Soapy did likewise, with a presentiment that luck would again run against him. The policeman looked at the two curiously.

"Of course," said the umbrella man—"that is—well, you know how these mistakes occur—I—if it's your umbrella I hope you'll excuse me—I picked it up this morning in a restaurant—If you recognize it as yours, why—I hope you'll—"

"Of course it's mine," said Soapy, viciously.

The ex-umbrella man retreated. The policeman hurried to assist a tall blonde in an opera cloak across the street in front of a street car that was approaching two blocks away.

Soapy walked eastward through a street damaged by improvements. He hurled the umbrella wrathfully into an excavation. He muttered against the men who wear helmets and carry clubs. Because he wanted to fall into their clutches, they seemed to regard him as a king who could do no wrong.

At length Soapy reached one of the avenues to the east where the glitter and turmoil was but faint. He set his face down this toward Madison Square, for the homing instinct survives even when the home is a park bench.

But on an unusually quiet corner Soapy came to a standstill. Here was an old church, quaint and rambling and gabled. Through one violet-stained window a soft light glowed, where, no doubt, the organist loitered over the keys, making sure of his mastery of the coming Sabbath anthem. For there drifted out to Soapy's ears sweet music that caught and held him transfixed against the convolutions of the iron fence.

The moon was above, lustrous and serene; vehicles and pedestrians were few; sparrows twittered sleepily in the eaves—for a little while the scene might have been a country churchyard. And the anthem that the organist played cemented Soapy to the iron fence, for he had known it well in the days when his life contained such things as mothers and roses and ambitions and friends and immaculate thoughts and collars.

The conjunction of Soapy's receptive state of mind and the influences about the old church wrought a sudden and wonderful change in his soul. He viewed with swift horror the pit into which he had tumbled, the degraded days, unworthy desires, dead hopes, wrecked faculties and base motives that made up his existence.

And also in a moment his heart responded thrillingly to this novel mood. An instantaneous and strong impulse moved him to battle with his desperate fate. He would pull himself out of the mire; he would make a man of himself again; he would conquer the evil that had taken possession of him. There was time; he was comparatively young yet; he would resurrect his old eager ambitions and pursue them without faltering. Those solemn but sweet organ notes had set up a revolution in him. To-morrow he would go into the roaring downtown district and find work. A fur importer had once offered him a place as driver.

He would find him to-morrow and ask for the position. He would be somebody in the world. He would—

Soapy felt a hand laid on his arm. He looked quickly around into the broad face of a policeman.

“What are you doin’ here?” asked the officer.

“Nothin’,” said Soapy.

“Then come along,” said the policeman.

“Three months on the Island,” said the Magistrate in the Police Court the next morning.

A Pre-Modern Potpourri

FRANK O'CONNOR

LEGAL AID

This short story by a well-known contemporary Irish writer describes with humor and much local color a seduction, the ensuing lawsuit, and its settlement through the combined efforts of opposing counsel.

DELIA CARTY came of a very respectable family. It was going as maid to the O'Gradys of Pouladuff that ruined her. That whole family was slightly touched. The old man, a national teacher, was hardly ever at home, and the daughters weren't much better. When they weren't away visiting, they had people visiting them, and it was nothing to Delia to come in late at night and find one of them plastered round some young fellow on the sofa.

That sort of thing isn't good for any young girl. Like mistress like maid; inside six months she was smoking, and within a year she was carrying on with one Tom Flynn, a farmer's son. Her father, a respectable, hard-working man, knew nothing about it, for he would have realized that she was no match for one of the Flynns, and even if Tom's father, Ned, had known, he would never have thought it possible that any labourer's daughter could imagine herself a match for Tom.

Not, God knows, that Tom was any great catch. He was a big uncouth galoot who was certain that love-making, like drink, was one of the simple pleasures his father tried to deprive him of, out of spite. He used to call at the house while the O'Gradys were away, and there would be Delia in one of Eileen O'Grady's frocks and with Eileen O'Grady's lipstick and powder on, doing the lady over the tea things in the parlour. Throwing a glance over his shoulder in case anyone might spot him, Tom would heave himself onto the sofa with his boots over the end.

"Begod, I love sofas," he would say with simple pleasure.

"Put a cushion behind you," Delia would say.

"Oh, begod," Tom would say, making himself comfortable, "if ever I have a house of my own 'tis unknown what sofas and cushions I'll

have. Them teachers must get great money. What the hell do they go away at all for?"

Delia loved making the tea and handing it out like a real lady, but you couldn't catch Tom out like that.

"Ah, what do I want tay for?" he would say with a doubtful glance at the cup. "Haven't you any whisky? Ould O'Grady must have gallons of it. . . . Leave it there on the table. Why the hell don't they have proper mugs with handles a man could get a grip on? Is that taypot silver? Pity I'm not a teacher!"

It was only natural for Delia to show him the bedrooms and the dressing-tables with the three mirrors, the way you could see yourself from all sides, but Tom, his hands under his head, threw himself with incredulous delight on the low double bed and cried: "Springs! Begod, 'tis like a car!"

What the springs gave rise to was entirely the O'Gradys' fault since no one but themselves would have left a house in a lonesome part to a girl of nineteen to mind. The only surprising thing was that it lasted two years without Delia showing any signs of it. It probably took Tom that time to find the right way.

But when he did he got into a terrible state. It was hardly in him to believe that a harmless poor devil like himself whom no one ever bothered his head about could achieve such unprecedented results on one girl, but when he understood it he knew only too well what the result of it would be. His father would first beat hell out of him and then throw him out and leave the farm to his nephews. There being no hope of conciliating his father, Tom turned his attention to God, who, though supposed to share Ned Flynn's views about fellows and girls, had some nature in Him. Tom stopped seeing Delia, to persuade God that he was reforming and to show that anyway it wasn't his fault. Left alone he could be a decent, good-living young fellow, but the Carty girl was a forward, deceitful hussy who had led him on instead of putting him off the way any well-bred girl would do. Between lipsticks, sofas, and tay in the parlour, Tom put it up to God that it was a great wonder she hadn't got him into worse trouble.

Delia had to tell her mother, and Mrs. Carty went to Father Corcoran to see could he induce Tom to marry her. Father Corcoran was a tall,

testy old man who, even at the age of sixty-five, couldn't make out for the life of him what young fellows saw in girls, but if he didn't know much about lovers he knew a lot about farmers.

"Wisha, Mrs. Carty," he said crankily, "how could I get him to marry her? Wouldn't you have a bit of sense? Some little financial arrangement, maybe, so that she could leave the parish and not be a cause of scandal—I might be able to do that."

He interviewed Ned Flynn, who by this time had got Tom's version of the story and knew financial arrangements were going to be the order of the day unless he could put a stop to them. Ned was a man of over six foot with a bald brow and a smooth unlined face as though he never had a care except his general concern for the welfare of humanity which made him look so abnormally thoughtful. Even Tom's conduct hadn't brought a wrinkle to his brow.

"I don't know, father," he said, stroking his bald brow with a die-away air, "I don't know what you could do at all."

"Wisha, Mr. Flynn," said the priest who, when it came to the pinch, had more nature than twenty Flynn's, "wouldn't you do the handsome thing and let him marry her before it goes any farther?"

"I don't see how much farther it could go, father," said Ned.

"It could become a scandal."

"I'm afraid 'tis that already, father."

"And after all," said Father Corcoran, forcing himself to put in a good word for one of the unfortunate sex whose very existence was a mystery to him, "is she any worse than the rest of the girls that are going? Bad is the best of them, from what I see, and Delia is a great deal better than most."

"That's not my information at all, father," said Ned, looking like "The Heart Bowed Down."

"That's a very serious statement, Mr. Flynn," said Father Corcoran, giving him a challenging look.

"It can be proved, father," said Ned gloomily. "Of course I'm not denying the boy was foolish, but the cleverest can be caught."

"You astonish me, Mr. Flynn," said Father Corcoran who was beginning to realize that he wasn't even going to get a subscription. "Of course I can't contradict you, but 'twill cause a terrible scandal."

"I'm as sorry for that as you are, father," said Ned, "but I have my son's future to think of."

Then, of course, the fun began. Foolish to the last, the O'Gradys wanted to keep Delia on till it was pointed out to them that Mr. O'Grady would be bound to get the blame. After this, her father had to be told. Dick Carty knew exactly what became a devoted father, and he beat Delia till he had to be hauled off her by the neighbours. He was a man who loved to sit in his garden reading his paper; now he felt he owed it to himself not to be seen enjoying himself, so instead he sat over the fire and brooded. The more he brooded the angrier he became. But seeing that, with the best will in the world, he could not beat Delia every time he got angry, he turned his attention to the Flynnns. Ned Flynn, that contemptible bosthoon, had slighted one of the Cartys in a parish where they had lived for hundreds of years with unblemished reputations; the Flynnns, as everyone knew, being mere upstarts and outsiders without a date on their gravestones before 1850—nobodies!

He brought Delia to see Jackie Canty, the solicitor in town. Jackie was a little jenny-ass of a man with thin lips, a pointed nose, and a pince-nez that wouldn't stop in place, and he listened with grave enjoyment to the story of Delia's misconduct. "And what happened then, please?" he asked in his shrill singsong, looking at the floor and trying hard not to burst out into a giggle of delight. "The devils!" he thought. "The devils!" It was as close as Jackie was ever likely to get to the facts of life, an opportunity not to be missed.

"Anything in writing?" he sang, looking at her over the pince-nez. "Any letters? Any documents?"

"Only a couple of notes I burned," said Delia, who thought him a very queer man, and no wonder.

"Pity!" Jackie said with an admiring smile. "A smart man! Oh, a very smart man!"

"Ah, 'tisn't that at all," said Delia uncomfortably, "only he had no occasion for writing."

"Ah, Miss Carty," cried Jackie in great indignation, looking at her challengingly through the specs while his voice took on a steely ring, "a gentleman in love always finds plenty of occasion for writing. He's a smart man; your father might succeed in an action for seduction, but if 'tis defended 'twill be a dirty case."

"Mr. Carty," said her father solemnly, "I don't mind how dirty it is so long as I get justice." He stood up, a powerful man of six feet, and held up his clenched fist. "Justice is what I want," he said dramatically. "That's the sort I am. I keep myself to myself and mind my own business, but give me a cut, and I'll fight in a bag, tied up."

"Don't forget that Ned Flynn has the money, Dick," wailed Jackie.

"Mr. Carty," said Dick with a dignity verging on pathos, "you know me?"

"I do, Dick, I do."

"I'm living in this neighbourhood, man and boy, fifty years, and I owe nobody a ha-penny. If it took me ten years, breaking stones by the road, I'd pay it back, every penny."

"I know, Dick, I know," moaned Jackie. "But there's other things as well. There's your daughter's reputation. Do you know what they'll do? They'll go into court and swear someone else was the father."

"Tom could never say that," Delia cried despairingly. "The tongue would rot in his mouth."

Jackie had no patience at all with this chit of a girl, telling him his business. He sat back with a weary air, his arm over the back of his chair.

"That statement has no foundation," he said icily. "There is no record of any such thing happening a witness. If there was, the inhabitants of Ireland would have considerably less to say for themselves. You would be surprised the things respectable people will say in the witness box. Rot in their mouths indeed! Ah, dear me, no. With documents, of course, it would be different, but it is only our word against theirs. Can it be proved that you weren't knocking round with any other man at this time, Miss Carty?"

"Indeed, I was doing nothing of the sort," Delia said indignantly. "I swear to God I wasn't, Mr. Carty. I hardly spoke to a fellow the whole

time, only when Tom and myself might have a row and I'd go out with Timmy Martin."

"Timmy Martin!" Canty cried dramatically, pointing an accusing finger at her. "There is their man!"

"But Tom did the same with Betty Daly," cried Delia on the point of tears, "and he only did it to spite me. I swear there was nothing else in it, Mr. Canty, nor he never accused me of it."

"Mark my words," chanted Jackie with a mournful smile, "he'll make up for lost time now."

In this he showed considerably more foresight than Delia gave him credit for. After the baby was born and the action begun, Tom and his father went to town to see their solicitor, Peter Humphreys. Peter, who knew all he wanted to know about the facts of life, liked the case much less than Jackie. A crosseyed, full-blooded man who had made his money when law was about land, not love, he thought it a terrible come-down. Besides, he didn't think it nice to be listening to such things.

"And so, according to you, Timmy Martin is the father?" he asked Tom.

"Oh, I'm not swearing he is," said Tom earnestly, giving himself a heave in his chair and crossing his legs. "How the hell could I? All I am saying is that I wasn't the only one, and what's more she boasted about it. Boasted about it, begod!" he added with a look of astonishment at such female depravity.

"Before witnesses?" asked Peter, his eyes doing a double cross with hopelessness.

"As to that," replied Tom with great solemnity, looking over his shoulder for an open window he could spit through, "I couldn't swear."

"But you understood her to mean Timmy Martin?"

"I'm not accusing Timmy Martin at all," said Tom in great alarm, seeing how the processes of law were tending to involve him in a row with the Martins, who were a turbulent family with ways of getting their own back unknown to any law. "Timmy Martin is one man she used to be round with. It might be Timmy Martin or it might be someone else, or what's more," he added with the look of a man who has had a sudden revelation, "it might be more than one." He looked from Peter

to his father and back again to see what effect the revelation was having, but like other revelations it didn't seem to be going down too well. "Begod," he said, giving himself another heave, "it might be any God's number. . . . But, as to that," he added cautiously, "I wouldn't like to swear."

"Nor indeed, Tom," said his solicitor with a great effort at politeness, "no one would advise you. You'll want a good counsel."

"Begod, I suppose I will," said Tom with astonished resignation before the idea that there might be people in the world bad enough to doubt his word.

There was great excitement in the village when it became known that the Flynns were having the Roarer Cooper as counsel. Even as a first-class variety turn Cooper could always command attention, and everyone knew that the rights and wrongs of the case would be relegated to their proper position while the little matter of Eileen O'Grady's best frock received the attention it deserved.

On the day of the hearing the court was crowded. Tom and his father were sitting at the back with Peter Humphreys, waiting for Cooper, while Delia and her father were talking to Jackie Canty and their own counsel, Ivers. He was a well-built young man with a high brow, black hair, and half-closed, red-tinged sleepy eyes. He talked in a bland drawl.

"You're not worrying, are you?" he asked Delia kindly. "Don't be a bit afraid. . . . I suppose there's no chance of them settling, Jackie?"

"Musha, what chance would there be?" Canty asked scoldingly. "Don't you know yourself what sort they are?"

"I'll have a word with Cooper myself," said Ivers. "Dan isn't as bad as he looks." He went to talk to a coarse-looking man in wig and gown who had just come in. To say he wasn't as bad as he looked was no great compliment. He had a face that was almost a square, with a big jaw and blue eyes in wicked little slits that made deep dents across his cheekbones.

"What about settling this case of ours, Dan?" Ivers asked gently.

Cooper didn't even return his look; apparently he was not responsive to charm.

"Did you ever know me to settle when I could fight?" he growled.

"Not when you could fight your match," Ivers said, without taking offence. "You don't consider that poor girl your match?"

"We'll soon see what sort of girl she is," replied Cooper complacently as his eyes fell on the Flynns. "Tell me," he whispered, "what did she see in my client?"

"What you saw yourself when you were her age, I suppose," said Ivers. "You don't mean there wasn't a girl in a tobacconist's shop that you thought came down from heaven with the purpose of consoling you?"

"She had nothing in writing," Cooper replied gravely. "And, unlike your client, I never saw double."

"You don't believe that yarn, do you?"

"That's one of the things I'm going to inquire into."

"I can save you the trouble. She was too fond of him."

"Hah!" snorted Cooper as though this were a good joke. "And I suppose that's why she wants the cash."

"The girl doesn't care if she never got a penny. Don't you know yourself what's behind it? A respectable father. Two respectable fathers! The trouble about marriage in this country, Dan Cooper, is that the fathers always insist on doing the coorting."

"Hah!" grunted Cooper, rather more uncertain of himself. "Show me this paragon of the female sex, Ivers."

"There in the brown hat beside Canty," said Ivers without looking round. "Come on, you old devil, and stop trying to pretend you're Buffalo Bill. It's enough going through what she had to go through. I don't want her to go through any more."

"And why in God's name do you come to me?" Cooper asked in sudden indignation. "What the hell do you take me for? A Society for Protecting Fallen Women? Why didn't the priest make him marry her?"

"When the Catholic Church can make a farmer marry a labourer's daughter the Kingdom of God will be at hand," said Ivers. "I'm surprised at you, Dan Cooper, not knowing better at your age."

"And what are the neighbours doing here if she has nothing to hide?"

"Who said she had nothing to hide?" Ivers asked lightly, throwing in his hand. "Haven't you daughters of your own? You know she played the fine lady in the O'Gradys' frocks. If 'tis any information to you she wore their jewellery as well."

"Ivers, you're a young man of great plausibility," said Cooper, "but you can spare your charm on me. I have my client's interests to consider. Did she sleep with the other fellow?"

"She did not."

"Do you believe that?"

"As I believe in my own mother."

"The faith that moves mountains," Cooper said despondently. "How much are ye asking?"

"Two hundred and fifty," replied Ivers, shaky for the first time.

"Merciful God Almighty!" moaned Cooper, turning his eyes to the ceiling. "As if any responsible Irish court would put that price on a girl's virtue. Still, it might be as well. I'll see what I can do."

He moved ponderously across the court and with two big arms outstretched like wings shepherded out the Flynns.

"Two hundred and fifty pounds?" gasped Ned, going white. "Where in God's name would I get that money?"

"My dear Mr. Flynn," Cooper said with coarse amiability, "that's only half the yearly allowance his Lordship makes the young lady that obliges him, and she's not a patch on that girl in court. After a lifetime of experience I can assure you that for two years' fornication with a fine girl like that you won't pay a penny less than five hundred."

Peter Humphreys's eyes almost grew straight with the shock of such reckless slander on a blameless judge. He didn't know what had come over the Roarer. But that wasn't the worst. When the settlement was announced and the Flynns were leaving he went up to them again.

"You can believe me when I say you did the right thing, Mr. Flynn," he said. "I never like cases involving good-looking girls. Gentlemen

of his Lordship's age are terribly susceptible. But tell me, why wouldn't your son marry her now as he's about it?"

"Marry her?" echoed Ned, who hadn't yet got over the shock of having to pay two hundred and fifty pounds and costs for a little matter he could have compounded for with Father Corcoran for fifty. "A thing like that!"

"With two hundred and fifty pounds, man?" snarled Cooper. "'Tisn't every day you'll pick up a daughter-in-law with that. . . . What do you say to the girl yourself?" he asked Tom.

"Oh, begod, the girl is all right," said Tom.

Tom looked different. It was partly relief that he wouldn't have to perjure himself, partly astonishment at seeing his father so swiftly overthrown. His face said: "The world is wide."

"Ah, Mr. Flynn, Mr. Flynn," whispered Cooper scornfully, "sure you're not such a fool as to let all that good money out of the family?"

Leaving Ned gasping, he went on to where Dick Carty, aglow with pride and malice, was receiving congratulations. There were no congratulations for Delia who was standing near him. She felt a big paw on her arm and looked up to see the Roarer.

"Are you still fond of that boy?" he whispered.

"I have reason to be, haven't I?" she retorted bitterly.

"You have," he replied with no great sympathy. "The best. I got you that money so that you could marry him if you wanted to. Do you want to?"

Her eyes filled with tears as she thought of the poor broken china of an idol that was being offered her now.

"Once a fool, always a fool," she said sullenly.

"You're no fool at all, girl," he said, giving her arm an encouraging squeeze. "You might make a man of him yet. I don't know what the law in this country is coming to. Get him away to hell out of this till I find Michael Ivers and get him to talk to your father."

The two lawyers made the match themselves at Johnny Desmond's pub, and Johnny said it was like nothing in the world so much as a mission, with the Roarer roaring and threatening hellfire on all con-

cerned, and Michael Ivers piping away about the joys of heaven. Johnny said it was the most instructive evening he ever had. Ivers was always recognized as a weak man so the marriage did him no great harm, but of course it was a terrible comedown for a true Roarer, and Cooper's reputation has never been the same since then.

ARTHUR TRAIN

THE DOG ANDREW

Here is one of the most popular of the “Ephraim Tutt” series. In *The Dog Andrew*, the story of a dog-bite trial, Ephraim Tutt and his associate, the other lawyer named Tutt, engage in an interesting historical discussion of the treatment, in criminal law, of animals and their human masters.

"Every dog is entitled to one bite."—UNREPORTED OPINION OF THE APPELLATE DIVISION OF THE NEW YORK SUPREME COURT.

“**N**OW SEE HERE!” shouted Mr. Appleboy, coming out of the boat-house, where he was cleaning his morning’s catch of perch, as his neighbor Mr. Tunnygate crashed through the hedge and cut across Appleboy’s parched lawn to the beach. “See here, Tunnygate, I won’t have you trespassing on my place! I’ve told you so at least a dozen times! Look at the hole you’ve made in that hedge, now! Why can’t you stay in the path?”

His ordinarily good-natured countenance was suffused with anger and perspiration. His irritation with Mr. Tunnygate had reached the point of explosion. Tunnygate was a thankless friend and he was a great cross to Mr. Appleboy. Aforetime the two had been intimate in the fraternal, taciturn intimacy characteristic of fat men, an attraction perhaps akin to that exerted for one another by celestial bodies of great mass, for it is a fact that stout people do gravitate toward one another—and hang or float in placid juxtaposition, perhaps merely as a physical result of their avoirdupois. So Appleboy and Tunnygate had swum into each other’s spheres of influence, either blown by the dallying winds of chance or drawn by some mysterious animal magnetism, and, being both addicted to the delights of the soporific sport sanctified by Izaak Walton, had raised unto themselves portable temples upon the shores of Long Island Sound in that part of the geographical limits of the Greater City known as Throggs Neck.

Every morn during the heat of the summer months Appleboy would rouse Tunnygate or conversely Tunnygate would rouse Appleboy, and

each in his own wobbly skiff would row out to the spot which seemed most propitious to the piscatorial art. There, under two green umbrellas, like two fat rajahs in their shaking howdahs upon the backs of two white elephants, the friends would sit in solemn equanimity awaiting the evasive cunner, the vagrant perch or cod, or the occasional flirtatious eel. They rarely spoke and when they did the edifice of their conversation—their Tower of Babel, so to speak—was monosyllabic. Thus:

“Huh! Ain’t had a bite!”

“Huh!”

“Huh!”

Silence for forty minutes. Then: “Huh! Had a bite?”

“Nope!”

“Huh!”

That was generally the sum total of their interchange. Yet it satisfied them, for their souls were in harmony. To them it was pregnant of unutterable meanings, of philosophic mysteries more subtle than those of the esoterics, of flowers and poetry, of bird song and twilight, of all the nuances of softly whispered avowals, of the elusive harmonies of love’s half-fainting ecstasy.

“Huh!”

“Huh!”

And then into this Eden—only not by virtue of the excision of any vertebra such as was originally necessary in the case of Adam—burst woman. There was silence no longer. The air was rent with clamor; for both Appleboy and Tunnygate, within a month of one another, took unto themselves wives. Wives after their own image!

For a while things went well enough; it takes ladies a few weeks to find out each other’s weak points. But then the new Mrs. Tunnygate unexpectedly yet undeniably began to exhibit the serpent’s tooth, the adder’s tongue, or the cloven hoof—as the reader’s literary traditions may lead him to prefer. For no obvious reason at all she conceived a violent hatred of Mrs. Appleboy, a hatred that waxed all the more virulent on account of its object’s innocently obstinate refusal to comprehend or recognize it. Indeed Mrs. Tunnygate found it so difficult to rouse Mrs. Appleboy into a state of belligerency sufficiently interesting

that she soon transferred her energies to the more worthy task of making Appleboy's life a burden to him.

To this end she devoted herself with a truly Machiavellian ingenuity, devising all sorts of insults, irritations, and annoyances, and adding to the venom of her tongue the inventive cunning of a Malayan witch doctor. The Appleboys' flowerpots mysteriously fell off the piazza, their tholepins disappeared, their milk bottles vanished, Mr. Appleboy's fish lines acquired a habit of derangement equaled only by barbed-wire entanglements, and his clams went bad! But these things might have been borne had it not been for the crowning achievement of her malevolence, the invasion of the Appleboys' cherished lawn, upon which they lavished all that anxious tenderness which otherwise they might have devoted to a child.

It was only about twenty feet by twenty, and it was bordered by a hedge of moth-eaten privet, but anyone who has ever attempted to induce a blade of grass to grow upon a sand dune will fully appreciate the deviltry of Mrs. Tunnygate's malignant mind. Already there was a horrid rent where Tunnygate had floundered through at her suggestion in order to save going round the pathetic grass plot which the Appleboys had struggled to create where Nature had obviously intended a floral vacuum. Undoubtedly it had been the sight of Mrs. Appleboy with her small watering pot patiently encouraging the recalcitrant blades that had suggested the malicious thought to Mrs. Tunnygate that maybe the Appleboys didn't own that far up the beach. They didn't—that was the mockery of it. Like many others they had built their porch on their boundary line, and, as Mrs. Tunnygate pointed out, they were claiming to own something that wasn't theirs. So Tunnygate, in daily obedience to his spouse, forced his way through the hedge to the beach, and daily the wrath of the Appleboys grew until they were driven almost to desperation.

Now when the two former friends sat fishing in their skiffs they either contemptuously ignored one another or, if they "Huh-Huhed!" at all the "Huhs!" resembled the angry growls of infuriated beasts. The worst of it was that the Appleboys couldn't properly do anything about it. Tunnygate had, as Mrs. Tunnygate sneeringly pointed out, a perfect legal right to push his way through the hedge and tramp across the

lawn, and she didn't propose to allow the Appleboys to gain any rights by proscription, either. Not much!

Therefore, when Mr. Appleboy addressed to Mr. Tunnygate the remarks with which this story opens, the latter insolently replied in words, form, or substance that Mr. Appleboy could go to hell. Moreover, as he went by Mr. Appleboy he took pains to kick over a clod of transplanted sea grass, nurtured by Mrs. Appleboy as the darling of her bosom, and designed to give an air of verisimilitude to an otherwise bare and unconvincing surface of sand. Mr. Appleboy almost cried with vexation.

"Oh!" he ejaculated, struggling for words to express the full content of his feeling. "Gosh, but you're—mean!"

He hit it! Curiously enough, that was exactly the word! Tunnygate was mean—and his meanness was second only to that of the fat hippopotama, his wife.

Then, without knowing why, for he had no formulated ideas as to the future and probably only intended to try to scare Tunnygate with vague threats, Appleboy added: "I warn you not to go through that hedge again! Understand—I warn you! And if you do I won't be responsible for the consequences!"

He really didn't mean a thing by the words, and Tunnygate knew it.

"Huh!" retorted the latter contemptuously. "You!"

Mr. Appleboy went inside the shack and banged the door. Mrs. Appleboy was peeling potatoes in the kitchen-living room.

"I can't stand it!" he cried weakly. "He's driving me wild!"

"Poor lamb!" soothed Mrs. Appleboy, peeling an interminable rind. "Ain't that just a sweetie? Look! It's most as long as your arm!"

She held it up, dangling between her thumb and forefinger. Then, with a groan she dropped it at his feet. "I know it's a real burden to you, deary!" she sighed.

Suddenly they both bent forward with startled eyes, hypnotized by the peel upon the floor.

Unmistakably it spelt "dog"! They looked at one another significantly.

"It is a symbol!" breathed Mrs. Appleboy in an awed whisper.

"Whatever it is, it's some grand idea!" exclaimed her husband. "Do you know anybody who's got one? I mean a—a—"

"I know just what you mean," she agreed. "I wonder we never thought of it before! But there wouldn't be any use in getting any dog!"

"Oh, no!" he concurred. "We want a real—dog!"

"One you know about!" she commented.

"The fact is," said he, rubbing his forehead, "if they know about 'em they do something to 'em. It ain't so easy to get the right kind."

"Oh, we'll get one!" she encouraged him. "Now Aunt Eliza up to Livonia used to have one. It made a lot of trouble and they ordered her—the selectmen did—to do away with it. But she only pretended she had—she didn't really—and I think she's got him yet."

"Gee!" said Mr. Appleboy tensely. "What sort was it?"

"A bull!" she replied. "With a big white face."

"That's the kind!" he agreed excitedly. "What was its name?"

"Andrew," she answered.

"That's a queer name for a dog!" he commented. "Still, I don't care what his name is, so long as he's the right kind of dog! Why don't you write to Aunt Eliza tonight?"

"Of course Andrew may be dead," she hazarded. "Dogs do die."

"Oh, I guess Andrew isn't dead!" he said hopefully. "That tough kind of dog lasts a long time. What will you say to Aunt Eliza?"

Mrs. Appleboy went to the dresser and took a pad and pencil from one of the shelves.

"Oh, something like this," she answered, poising the pencil over the pad in her lap:

Dear Aunt Eliza: I hope you are quite well. It is sort of lonely living down here on the beach and there are a good many rough characters, so we are looking for a dog for companionship and protection. Almost any kind of healthy dog would do and you may be sure he would have a good home. Hoping to see you soon. Your affectionate niece, *Bashemath*.

"I hope she'll send us Andrew," said Appleboy.

"I guess she will!" nodded Bashemath.

"What on earth is that sign?" wrathfully demanded Mrs. Tunnygate one morning about a week later as she looked across the Appleboys' lawn from her kitchen window. "Can you read it, Herman?"

Herman stopped trying to adjust his collar and went out on the piazza.

"Something about 'dog,' " he declared finally.

"Dog!" she exclaimed. "They haven't got a dog!"

"Well," he remarked, "that's what the sign says: 'Beware of the dog'! And there's something above it. Oh! 'No crossing this property. Trespassing forbidden.' "

"What impudence!" avowed Mrs. Tunnygate. "Did you ever know such people! First they try and take land that don't belong to them, and then they go and lie about having a dog. Where are they, anyway?"

"I haven't seen 'em this morning," he answered. "Maybe they've gone away and put up the sign so we won't go over. Think that'll stop us!"

"In that case they've got another think comin'!" she retorted angrily. "I've a good mind to have you go over and tear up the whole place!"

"'N pull up the hedge?" he concurred eagerly. "Good chance!"

Indeed, to Mr. Tunnygate it seemed the supreme opportunity both to distinguish himself in the eyes of his blushing bride and to gratify that perverse instinct inherited from our cave-dwelling ancestors to destroy utterly—in order, perhaps, that they may never seek to avenge themselves upon us—those whom we have wronged. Accordingly Mr. Tunnygate girded himself with his suspenders and, with a gleam of fiendish exultation in his eye, stealthily descended from his porch and crossed to the hole in the hedge. No one was in sight except two barefooted searchers after clams a few hundred yards farther up the beach and a man working in a field half a mile away. The bay shimmered in the broiling August sun and from a distant grove came the rattle and wheeze of locusts. Throggs Neck blazed in silence, and utterly silent was the house of Appleboy.

With an air of bravado, but with a slightly accelerated heartbeat, Tunnygate thrust himself through the hole in the hedge and looked

scornfully about the Appleboy lawn. A fierce rage worked through his veins. A lawn! What effrontery! What business had these condescending second-raters to presume to improve a perfectly good beach which was satisfactory to other folks? He'd show 'em! He took a step in the direction of the transplanted sea grass. Unexpectedly the door of the Appleboy kitchen opened.

"I warned you!" enunciated Mr. Appleboy with unnatural calmness, which with another background might have struck almost anybody as suspicious.

"Huh!" returned the startled Tunnygate, forced under the circumstances to assume a nonchalance that he did not altogether feel. "You!"

"Well," repeated Mr. Appleboy. "Don't ever say I didn't!"

"Pshaw!" ejaculated Mr. Tunnygate disdainfully.

With premeditation and deliberation, and with undeniable malice aforethought, he kicked the nearest bunch of sea grass several feet in the air. His violence carried his leg high in the air and he partially lost his equilibrium. Simultaneously a white streak shot from beneath the porch and something like a red-hot poker thrust itself savagely into an extremely tender part of his anatomy.

"Ouch! O—o—oh!" he yelled in agony. "Oh!"

"Come here, Andrew!" said Mr. Appleboy mildly. "Good doggy! Come here!"

But Andrew paid no attention. He had firmly affixed himself to the base of Mr. Tunnygate's personality without any intention of being immediately detached. And he had selected that place, taken aim, and discharged himself with an air of confidence and skill begotten of life-long experience.

"Oh! O—o—oh!" screamed Tunnygate, turning wildly and clawing through the hedge, dragging Andrew after him. "Oh! O—oh!"

Mrs. Tunnygate rushed to the door in time to see her spouse lumbering up the beach with a white object gyrating in the air behind him.

"What's the matter?" she called out languidly. Then perceiving the matter she hastily followed. The Appleboys were standing on their lawn, viewing the whole proceeding with ostentatious indifference.

Up the beach fled Tunnygate, his cries becoming fainter and fainter. The two clam diggers watched him curiously but made no attempt to go to his assistance. The man in the field leaned luxuriously upon his hoe and surrendered himself to unalloyed delight. Tunnygate was now but a white flicker against the distant sand. His wails had a dying fall: "O—o—oh!"

"Well, we warned him!" remarked Mr. Appleboy to Bashemath with a smile in which, however, lurked a slight trace of apprehension.

"We certainly did!" she replied. Then after a moment she added a trifle anxiously: "I wonder what will happen to Andrew!"

Tunnygate did not return. Neither did Andrew. Secluded in their kitchen-living room the Appleboys heard a motor arrive and through a crack in the door saw it carry Mrs. Tunnygate away bedecked as for some momentous ceremonial. At four o'clock, while Appleboy was digging bait, he observed another motor making its wriggly way along the dunes. It was fitted longitudinally with seats, had a wire grating and was marked N.Y.P.D. Two policemen in uniform sat in front. Instinctively Appleboy realized that the gods had called him. His heart sank among the clams. Slowly he made his way back to the lawn where the wagon had stopped outside the hedge.

"Hey there!" called out the driver. "Is your name Appleboy?" Appleboy nodded.

"Put your coat on, then, and come along," directed the other. "I've got a warrant for you."

"Warrant?" stammered Appleboy dizzily.

"What's that?" cried Bashemath, appearing at the door. "Warrant for what?"

The officer slowly descended and handed Appleboy a paper. "For assault," he replied. "I guess you know what for, all right!"

"We haven't assaulted anybody," protested Mrs. Appleboy heatedly. "Andrew—"

"You can explain all that to the judge," retorted the cop. "Meanwhile put on your duds and climb in. If you don't expect to spend the night at the station you'd better bring along the deed of your house so you can give bail."

"But who's the warrant for?" persisted Mrs. Appleboy.

"For Enoch Appleboy," retorted the cop wearily. "Can't you read?"

"But Enoch didn't do a thing!" she declared. "It was Andrew!"

"Who's Andrew?" inquired the officer of the law mistrustfully.

"Andrew's a dog," she explained.

"Mr. Tutt," announced Tutt, leaning against his senior partner's doorjamb with a formal-looking paper in his hand, "I have landed a case that will delight your legal soul."

"Indeed?" queried the elder lawyer. "I have never differentiated between my legal soul and any other I may possess. However, I assume from your remark that we have been retained in a matter presenting some peculiarly absurd, archaic, or otherwise interesting doctrine of law?"

"Not directly," responded Tutt. "Though you will doubtless find it entertaining enough, but indirectly—atmospherically, so to speak—it touches upon doctrines of jurisprudence, of religion and of philosophy, replete with historic fascination."

"Good!" exclaimed Mr. Tutt, laying down his stogy. "What kind of a case is it?"

"It's a dog case!" said the junior partner, waving the paper. "The dog bit somebody."

"Ah!" exclaimed Mr. Tutt, perceptibly brightening. "Doubtless we shall find a precedent in Oliver Goldsmith's famous elegy:

"And in that town a dog was found,
As many dogs there be,
Both mongrel, puppy, whelp, and hound,
And curs of low degree."

"Only," explained Tutt, "in this case, though the man recovered of the bite, the dog refused to die!"

"And so they want to prosecute the dog? It can't be done. An animal hasn't been brought to the bar of justice for several centuries."

"No, no!" interrupted Tutt. "They don't——"

"There was a case," went on Mr. Tutt reminiscently. "Let me see—at Sauvigny, I think it was—about 1457, when they tried a sow and three pigs for killing a child. The court assigned a lawyer to defend her, but like many assigned counsel he couldn't think of anything to say in her behalf. As regards the little pigs he did enter the plea that no animus was shown, that they had merely followed the example of their mother, and that at worst they were under age and irresponsible. However, the court found them all guilty, and the sow was publicly hanged in the market place."

"What did they do with the three little pigs?" inquired Tutt with some interest.

"They were pardoned on account of their extreme youth," said Mr. Tutt, "and turned loose again—with a warning."

"I'm glad of that!" sighed Tutt. "Is that a real case?"

"Absolutely," replied his partner. "I've read it in the Sauvigny records."

"I'll be hanged!" exclaimed Tutt. "I never knew that animals were ever held personally responsible."

"Why, of course they were!" said Mr. Tutt. "Why shouldn't they be? If animals have souls why shouldn't they be responsible for their acts?"

"But they haven't any souls!" protested Tutt.

"Haven't they now?" remarked the elder lawyer. "I've seen many an old horse that had a great deal more conscience than his master. And on general principles wouldn't it be far more just and humane to have the law deal with a vicious animal that had injured somebody than to leave its punishment to an irresponsible and arbitrary owner who might be guilty of extreme brutality?"

"If the punishment would do any good—yes!" agreed Tutt.

"Well, who knows?" meditated Mr. Tutt. "I wonder if it ever does any good? But anybody would have to agree that responsibility for one's acts should depend upon the degree of one's intelligence—and from that point of view many of our friends are really much less responsible than sheep."

"Which, as you so sagely point out, would, however, be a poor reason for letting their families punish them in case they did wrong. Just think how such a privilege might be abused! If Uncle John didn't behave himself as his nephews thought proper they could simply set upon him and briskly beat him up."

"Yes, of course, the law even today recognizes the right to exercise physical discipline within the family. Even homicide is excusable, under Section 1054 of our code, when committed in lawfully correcting a child or servant."

"That's a fine relic of barbarism!" remarked Tutt. "But the child soon passes through that dangerous zone and becomes entitled to be tried for his offenses by a jury of his peers; the animal never does."

"Well, an animal couldn't be tried by a jury of his peers, anyhow," said Mr. Tutt.

"I've seen juries that were more like nanny goats than men!" commented Tutt. "I'd like to see some of our clients tried by juries of geese or woodchucks."

"The field of criminal responsibility is the no man's land of the law," mused Mr. Tutt. "Roughly, mental capacity to understand the nature of one's acts is the test, but it is applied arbitrarily in the case of human beings and a mere point of time is taken beyond which, irrespective of his actual intelligence, a man is held accountable for whatever he does. Of course that is theoretically unsound. The more intelligent a person is the more responsible he should be held to be and the higher the quality of conduct demanded of him by his fellows. Yet after twenty-one all are held equally responsible—unless they're actually insane. It isn't equity! In theory no man or animal should be subject to the power of discretionary punishment on the part of another—even his own father or master. I've often wondered what earthly right we have to make the animals work for us—to bind them to slavery when we denounce slavery as a crime. It would horrify us to see a human being put up and sold at auction. Yet we tear the families of animals apart, subject them to lives of toil, and kill them whenever we see fit. We say we do this because their intelligence is limited and they cannot exercise any discrimination in their conduct, that they are always in the zone of irresponsibility and so have no

rights. But I've seen animals that were shrewder than men, and men who were vastly less intelligent than animals."

"Right-o!" assented Tutt. "Take Scraggs, for instance. He's no more responsible than a chipmunk."

"Nevertheless, the law has always been consistent," said Mr. Tutt, "and has never discriminated between animals any more than it has between men on the ground of varying degrees of intelligence. They used to try 'em all, big and little, wild and domesticated, mammals and invertebrates."

"Oh, come!" exclaimed Tutt. "I may not know much law, but—"

"Between 1120 and 1740 they prosecuted in France alone no less than ninety-two animals. The last one was a cow."

"A cow hasn't much intelligence," observed Tutt.

"And they tried fleas," added Mr. Tutt.

"They have a lot!" commented his junior partner. "I knew a flea once, who——"

"They had a regular form of procedure," continued Mr. Tutt, brushing the flea aside, "which was adhered to with the utmost technical accuracy. You could try an individual animal, either in person or by proxy, or you could try a whole family, swarm, or herd. If a town was infested by rats, for example, they first assigned counsel—an advocate, he was called—and then the defendants were summoned three times publicly to appear. If they didn't show up on the third and last call they were tried *in absentia*, and if convicted were ordered out of the country before a certain date under penalty of being exorcised."

"What happened if they were exorcised?" asked Tutt curiously.

"It depended a good deal on the local power of Satan," answered the old lawyer dryly. "Sometimes they became even more prolific and destructive than they were before, and sometimes they promptly died. All the leeches were prosecuted at Lausanne in 1451. A few selected representatives were brought into court, tried, convicted, and ordered to depart within a fixed period. Maybe they didn't fully grasp their obligations or perhaps were just acting contemptuously, but they didn't depart and so were promptly exorcised. Immediately they began to die off and before long there were none left in the country."

"I know some rats and mice I'd like to have exorcised," mused Tutt.

"At Autun in the fifteenth century the rats won their case," said Mr. Tutt.

"Who got 'em off?" asked Tutt.

"M. Chassensée, the advocate appointed to defend them. They had been a great nuisance and were ordered to appear in court. But none of them turned up. M. Chassensée therefore argued that a default should not be taken because *all* the rats had been summoned, and some were either so young or so old and decrepit that they needed more time. The court thereupon granted him an extension. However, they didn't arrive on the day set, and this time their lawyer claimed that they were under duress and restrained by bodily fear—of the townspeople's cats. That all these cats, therefore, should first be bound over to keep the peace! The court admitted the reasonableness of this, but the townsfolk refused to be responsible for their cats and the judge dismissed the case!"

"What did Chassensée get out of it?" inquired Tutt.

"There is no record of who paid him or what was his fee."

"He was a pretty slick lawyer," observed Tutt. "Did they ever try birds?"

"Oh, yes!" answered Mr. Tutt. "They tried a cock at Basel in 1474—for the crime of laying an egg."

"Why was that a crime?" asked Tutt. "I should call it a *tour de force*."

"Be that as it may," said his partner, "from a cock's egg is hatched the cockatrice, or basilisk, the glance of whose eye turns the beholder to stone. Therefore they tried the cock, found him guilty, and burned him and his egg together at the stake. That is why cocks don't lay eggs now."

"I'm glad to know that," said Tutt. "When did they give up trying animals?"

"Nearly two hundred years ago," answered Mr. Tutt. "But for some time after that they continued to try inanimate objects for causing injury to people. I've heard they tried one of the first locomotives that ran over a man and declared it forfeit to the crown as a deodand."

"I wonder if you couldn't get 'em to try Andrew," hazarded Tutt, "and maybe declare him forfeited to somebody as a deodand."

"Deodand means 'given to God,'" explained Mr. Tutt.

"Well, I'd give Andrew to God—if God would take him," declared Tutt devoutly.

"But who is Andrew?" asked Mr. Tutt.

"Andrew is a dog," said Tutt, "who bit one Tunnygate, and now the grand jury have indicted not the dog, as it is clear from your historical disquisition they should have done, but the dog's owner, Mr. Enoch Appleboy."

"What for?"

"Assault in the second degree with a dangerous weapon."

"What was the weapon?" inquired Mr. Tutt simply.

"The dog."

"What are you talking about?" cried Mr. Tutt. "What nonsense!"

"Yes, it is nonsense!" agreed Tutt. "But they've done it all the same. Read it for yourself!" And he handed Mr. Tutt the indictment.

The Grand Jury of the County of New York by this indictment accuse Enoch Appleboy of the crime of assault in the second degree, committed as follows:

Said Enoch Appleboy, late of the Borough of Bronx, City and County aforesaid, on the 21st day of July, in the year of our Lord one thousand nine hundred and fifteen, at the Borough and County aforesaid, with force and arms in and upon one Herman Tunnygate, in the peace of the State and People then and there being, feloniously did willfully and wrongfully make an assault in and upon the legs and body of him the said Herman Tunnygate, by means of a certain dangerous weapon, to wit: one dog, of the form, style, and breed known as "bull," being of the name of "Andrew," then and there being within control of the said Enoch Appleboy, which said dog, being of the name of "Andrew," the said Enoch Appleboy did then and there feloniously, willfully, and wrongfully incite, provoke, and encourage, then and there being, to bite him, the said Herman Tunnygate, by means whereof said dog "Andrew" did then and there

grievously bite the said Herman Tunnygate in and upon the legs and body of him, the said Herman Tunnygate, and the said Enoch Appleboy thus then and there feloniously did willfully and wrongfully cut, tear, lacerate, and bruise, and did then and there by the means of the dog "Andrew" aforesaid feloniously, willfully, and wrongfully inflict grievous bodily harm upon the said Herman Tunnygate, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

"That," asserted Mr. Tutt, wiping his spectacles, "is a document worthy of preservation in the Congressional Library. Who drew it?"

"Don't know," answered Tutt, "but whoever he was he was a humorist!"

"It's no good. There isn't any allegation of *scienter* in it," affirmed Mr. Tutt.

"What of it? It says he assaulted Tunnygate with a dangerous weapon. You don't have to set forth that he knew it was a dangerous weapon if you assert that he did it willfully. You don't have to allege in an indictment charging an assault with a pistol that the defendant knew it was loaded."

"But a dog is different!" reasoned Mr. Tutt. "A dog is not *per se* a dangerous weapon. Saying so doesn't make it so, and that part of the indictment is bad on its face—unless, to be sure, it means that he hit him with a dead dog, which, it is clear from the context, he didn't. The other part—that he set the dog on him—lacks the allegation that the dog was vicious and that Appleboy knew it: in other words an allegation of *scienter*. It ought to read that said Enoch Appleboy—'well knowing that said dog Andrew was a dangerous and ferocious animal and would, if incited, provoked and encouraged, bite the legs and body of him the said Herman—did then and there feloniously, willfully, and wrongfully incite, provoke, and encourage the said Andrew, and so forth.'"

"I get you!" exclaimed Tutt enthusiastically. "Of course an allegation of *scienter* is necessary! In other words you could demur to the indictment for insufficiency?"

Mr. Tutt nodded.

"But in that case they'd merely go before the grand jury and find another—a good one. It's much better to try and knock the case out on the trial once and for all."

"Well, the Appleboys are waiting to see you," said Tutt. "They are in my office. Bonnie Doon got the case for us off his local district leader, who's a member of the same lodge of the Abyssinian Mysteries—Bonnie's been Supreme Exalted Ruler of the Purple Mountain for over a year—and he's pulled in quite a lot of good stuff, not all dog cases either! Appleboy's an Abyssinian too."

"I'll see them," consented Mr. Tutt, "but I'm going to have you try the case. I shall insist upon acting solely in an advisory capacity. Dog trials aren't in my line. There are some things which are *infra dig*—even for Ephraim Tutt."

Mr. Appleboy sat stolidly at the bar of justice, pale but resolute. Beside him sat Mrs. Appleboy, also pale but even more resolute. A jury had been selected without much manifest attention by Tutt, who had nevertheless managed to slip an Abyssinian brother on the back row, and an ex-dog fancier for Number Six. Also among those present were a delicatessen man from East Houston Street, a dealer in rubber novelties, a plumber, and the editor of *Baby's World*. The foreman was almost as fat as Mr. Appleboy, but Tutt regarded this as an even break on account of the size of Tunnygate. As Tutt confidentially whispered to Mrs. Appleboy, it was as rotten a jury as he could get.

Mrs. Appleboy didn't understand why Tutt should want a rotten jury, but she nevertheless imbibed some vicarious confidence from this statement and squeezed Appleboy's hand encouragingly. For Appleboy, in spite of his apparent calm, was a very much frightened man, and under the creases of his floppy waistcoat his heart was beating like a tom-tom. The penalty for assault in the second degree was ten years in state's prison, and life with Bashemath, even in the vicinity of the Tunnygates, seemed sweet. The thought of breaking stones under the summer sun—it was a peculiarly hot summer—was awful. Ten years! He could never live through it! And yet as his glance fell upon the Tunnygates, arrayed in their best finery and sitting with an air of importance upon the front bench of the courtroom, he told himself that he would do the whole thing over again—yes, he would! He had only stood up for his rights, and Tunnygate's blood was upon his own

head—or wherever it was. So he squeezed Bashemath's hand tenderly in response.

Upon the bench Judge Witherspoon, assigned from somewhere up-state to help keep down the ever-lengthening criminal calendar of the Metropolitan District, finished the letter he was writing to his wife in Genesee County, sealed it, and settled back in his chair. An old war horse of the country bar, he had in his time been mixed up in almost every kind of litigation, but as he looked over the indictment he with difficulty repressed a smile. Thirty years ago he'd had a dog case himself; also of the form, style, and breed known as bull.

"You may proceed, Mr. District Attorney!" he announced, and little Pepperill, the youngest of the D.A.'s staff, just out of the law school, begoggled and with his hair plastered evenly down on either side of his small round head, rose with serious mien, and with a high piping voice opened the prosecution.

It was, he told them, a most unusual and hence most important case. The defendant Appleboy had maliciously procured a savage dog of the most vicious sort and loosed it upon the innocent complainant as he was on his way to work, with the result that the latter had nearly been torn to shreds. It was a horrible, dastardly, incredible, fiendish crime. He would expect them to do their full duty in the premises, and they should hear Mr. Tunnygate's story from his own lips.

Mr. Tunnygate limped with difficulty to the stand and, having been sworn, gingerly sat down—partially. Then turning his broadside to the gaping jury he recounted his woes with indignant gasps.

"Have you the trousers which you wore upon that occasion?" inquired Pepperill.

Mr. Tunnygate bowed solemnly and lifted from the floor a paper parcel which he untied and from which he drew what remained of that now historic garment.

"These are they," he announced dramatically.

"I offer them in evidence," exclaimed Pepperill, "and I ask the jury to examine them with great care."

They did so.

Tutt waited until the trousers had been passed from hand to hand and returned to their owner; then, rotund, chipper, and birdlike as ever, began his cross-examination much like a woodpecker attacking a stout stump. The witness had been an old friend of Mr. Appleboy's, had he not? Tunnygate admitted it, and Tutt pecked him again. Never had done him any wrong, had he? Nothing in particular. Well, any wrong? Tunnygate hesitated. Why, yes, Appleboy had tried to fence in the public beach that belonged to everybody. Well, did that do the witness any harm? The witness declared that it did; compelled him to go round when he had a right to go across. Oh! Tutt put his head on one side and glanced at the jury. How many feet? About twenty feet. Then Tutt pecked a little harder.

"Didn't you tear a hole in the hedge and stamp down the grass when by taking a few extra steps you could have reached the beach without difficulty?"

"I—I simply tried to remove an illegal obstruction!" declared Tunnygate indignantly.

"Didn't Mr. Appleboy ask you to keep off?"

"Sure—yes!"

"Didn't you obstinately refuse to do so?"

Mr. Pepperill objected to "obstinately" and it was stricken out.

"I wasn't going to stay off where I had a right to go," asserted the witness.

"And didn't you have warning that the dog was there?"

"Look here!" suddenly burst out Tunnygate. "You can't hector me into anything. Appleboy never had a dog before. He got a dog just to sick him on me! He put up a sign 'Beware of the dog,' but he knew that I'd think it was just a bluff. It was a plant, that's what it was! And just as soon as I got inside the hedge that dog went for me and nearly tore me to bits. It was a rotten thing to do and you know it!"

He subsided, panting.

Tutt bowed complacently.

"I move that the witness' remarks be stricken out on the grounds first, that they are unresponsive; second, that they are irrelevant, incom-

petent, and immaterial; third, that they contain expressions of opinion and hearsay; and fourth, that they are abusive and generally improper."

"Strike them out!" directed Judge Witherspoon. Then he turned to Tunnygate. "The essence of your testimony is that the defendant set a dog on you, is it not? You had quarreled with the defendant, with whom you had formerly been on friendly terms. You entered on premises claimed to be owned by him, though a sign warned you to beware of a dog. The dog attacked and bit you? That's the case, isn't it?"

"Yes, your Honor."

"Had you ever seen that dog before?"

"No, sir."

"Do you know where he got it?"

"My wife told me——"

"Never mind what your wife told you. Do you——"

"He don't know where the dog came from, judge!" suddenly called out Mrs. Tunnygate in strident tones from where she was sitting. "But I know!" she added venomously. "That woman of his got it from——"

Judge Witherspoon fixed her coldly with an impassive and judicial eye.

"Will you kindly be silent, madam? You will no doubt be given an opportunity to testify as fully as you wish. That is all, sir, unless Mr. Tutt has some more questions."

Tutt waved the witness from the stand contemptuously.

"Well, I'd like a chance to testify!" shrilled Mrs. Tunnygate, rising in full panoply.

"This way, madam," said the clerk, motioning her round the back of the jury box. And she swept ponderously into the offing like a full-rigged bark and came to anchor in the witness chair, her chin rising and falling upon her heaving bosom like the figurehead of a vessel upon a heavy harbor swell.

Now it has never been satisfactorily explained just why the character of an individual should be in any way deducible from such irrelevant attributes as facial anatomy, bodily structure, or the shape of the cranium. Perhaps it is not, and in reality we discern disposition from

something far more subtle—the tone of voice, the expression of the eyes, the lines of the face, or even from an aura unperceived by the senses. However that may be, the wisdom of the Constitutional safeguard guaranteeing that every person charged with crime shall be confronted by the witnesses against him was instantly made apparent when Mrs. Tunnygate took the stand, for without hearing a word from her firmly compressed lips the jury simultaneously swept her with one comprehensive glance and turned away. Students of women, experienced adventurers in matrimony, these plumbers, bird merchants, “delicates-sens,” and the rest looked, perceived and comprehended that here was the very devil of a woman—a virago, a shrew, a termagant, a natural-born trouble-maker; and they shivered and thanked God that she was Tunnygate’s and not theirs; their unformulated sentiment best expressed in Pope’s immortal couplet:

*Oh woman, woman! when to ill thy mind
Is bent, all hell contains no fouler fiend.*

She had said no word. Between the judge and jury nothing had passed, and yet through the alpha rays of that mysterious medium of communication by which all men as men are united where woman is concerned, the thought was directly transmitted and unanimously acknowledged that here for sure was a hellcat!

It was as naught to them that she testified to the outrageous illegality of the Appleboys’ territorial ambitions, the irascibility of the wife, the violent threats of the husband; or that Mrs. Appleboy had been observed to mail a suspicious letter shortly before the date of the canine assault. They disregarded her. Yet when Tutt upon cross-examination sought to attack her credibility by asking her various pertinent questions, they unhesitatingly accepted his implied accusations as true, though under the rules of evidence he was bound by her denials.

Peck 1: “Did you not knock Mrs. Appleboy’s flower pots off the piazza?” he demanded significantly.

“Never! I never did!” she declared passionately.

But they knew in their hearts that she had.

Peck 2: “Didn’t you steal her milk bottles?”

“What a lie! It’s absolutely false!”

Yet they knew that she did.

Peck 3: "Didn't you tangle up their fish lines and take their tholepins?"

"Well, I never! You ought to be ashamed to ask a lady such questions!"

They found her guilty.

"I move to dismiss, your Honor," chirped Tutt blithely at the conclusion of her testimony.

Judge Witherspoon shook his head.

"I want to hear the other side," he remarked. "The mere fact that the defendant put up a sign warning the public against the dog may be taken as some evidence that he had knowledge of the animal's vicious propensities. I shall let the case go to the jury unless this evidence is contradicted or explained. Reserve your motion."

"Very well, your Honor," agreed Tutt, patting himself upon the abdomen. "I will follow your suggestion and call the defendant. Mr. Appleboy, take the stand."

Mr. Appleboy heavily rose, and the heart of every fat man upon the jury, and particularly that of the Abyssinian brother upon the back row, went out to him. For just as they had known without being told that the new Mrs. Tunnygate was a vixen, they realized that Appleboy was a kind, good-natured man—a little soft, perhaps, like his clams, but no more dangerous. Moreover, it was plain that he had suffered and was, indeed, still suffering, and they had pity for him. Appleboy's voice shook and so did the rest of his person as he recounted his ancient friendship for Tunnygate and their piscatorial association, their common matrimonial experiences, the sudden change in the temperature of the society of Throggs Neck, the malicious destruction of their property and the unexplained aggressions of Tunnygate upon the lawn. And the jury, believing, understood.

Then like the sword of Damocles the Bessemer voice of Pepperill severed the general atmosphere of amiability: "Where did you get that dog?"

Mr. Appleboy looked round helplessly, distress pictured in every feature.

"My wife's aunt lent it to us."

"How did she come to lend it to you?"

"Bashemath wrote and asked for it."

"Oh! Did you know anything about the dog before you sent for it?"

"Of your own knowledge?" interjected Tutt sharply.

"Oh, no!" returned Appleboy.

"Didn't you know it was a vicious beast?" sharply challenged Pepperill.

"Of your own knowledge?" again warned Tutt.

"I'd never seen the dog."

"Didn't your wife tell you about it?"

Tutt sprang to his feet, wildly waving his arms.

"I object; on the ground that what passed between husband and wife upon this subject must be regarded as confidential."

"I will so rule," said Judge Witherspoon, smiling. "Excluded."

Pepperill shrugged his shoulders.

"I would like to ask a question," interpolated the editor of *Baby's World*.

"Do!" exclaimed Tutt eagerly.

The editor, who was a fat editor, rose in an embarrassed manner.

"Mr. Appleboy!" he began.

"Yes, sir!" responded Appleboy.

"I want to get this straight. You and your wife had a row with the Tunnygates. He tried to tear up your front lawn. You warned him off. He kept on doing it. You got a dog and put up a sign and when he disregarded it you sicked the dog on him. Is that right?"

He was manifestly friendly, merely a bit cloudy in the cerebellum. The Abyssinian brother pulled him sharply by the coattails.

"Sit down," he whispered hoarsely. "You're gumming it all up."

"I didn't sick Andrew on him!" protested Appleboy.

"But I say, why shouldn't he have?" demanded the baby's editor. "That's what anybody would do!"

Pepperill sprang frantically to his feet.

"Oh, I object! This juryman is showing bias. This is entirely improper."

"I am, am I?" sputtered the fat editor angrily. "I'll show you——"

"You want to be fair, don't you?" whined Pepperill. "I've proved that the Appleboys had no right to hedge in the beach!"

"Oh, pooh!" sneered the Abyssinian, now also getting to his feet. "Supposing they hadn't? Who cares a damn? This man Tunnygate deserved all he's got!"

"Gentlemen! Gentlemen!" expostulated the judge firmly. "Take your seats or I shall declare a mistrial. Go on, Mr. Tutt. Call your next witness."

"Mrs. Appleboy," called out Tutt, "will you kindly take the chair?" And that good lady, looking as if all her adipose existence had been devoted to the production of the sort of pies that mother used to make, placidly made her way to the witness stand.

"Did you know that Andrew was a vicious dog?" inquired Tutt.

"No!" answered Mrs. Appleboy firmly. "I didn't."

O woman!

"That is all," declared Tutt with a triumphant smile.

"Then," snapped Pepperill, "why did you send for him?"

"I was lonely," answered Bashemath unblushingly.

"Do you mean to tell this jury that you didn't know that that dog was one of the worst biters in Livonia?"

"I do!" she replied. "I only knew Aunt Eliza had a dog. I didn't know anything about the dog personally."

"What did you say to your aunt in your letter?"

"I said I was lonely and wanted protection."

"Didn't you hope the dog would bite Mr. Tunnygate?"

"Why, no!" she declared. "I didn't want him to bite anybody."

At that the delicatessen man poked the plumber in the ribs and they both grinned happily at one another.

Pepperill gave her a last disgusted look and sank back in his seat.

"That is all!" he ejaculated feebly.

"One question, if you please, madam," said Judge Witherspoon. "May I be permitted to"—he coughed as a suppressed snicker ran round the court—"that is—may I not—er——Oh, look here! How did you happen to have the idea of getting a dog?"

Mrs. Appleboy turned the full moon of her homely countenance upon the court.

"The potato peel came down that way!" she explained blandly.

"What!" exploded the dealer in rubber novelties.

"The potato peel—it spelled 'dog,' " she repeated artlessly.

"Lord!" deeply suspirated Pepperill. "What a case! Carry me out!"

"Well, Mr. Tutt," said the judge, "now I will hear what you may wish to say upon the question of whether this issue should be submitted to the jury. However, I shall rule that the indictment is sufficient."

Tutt elegantly rose.

"Having due respect to your Honor's ruling as to the sufficiency of the indictment I shall address myself simply to the question *scienter*. I might, of course, dwell upon the impropriety of charging the defendant with criminal responsibility for the act of another free agent even if that agent be an animal—but I will leave that, if necessary, for the Court of Appeals. If anybody were to be indicted in this case I hold it should have been the dog Andrew. Nay, I do not jest! But I can see by your Honor's expression that any argument upon that score would be without avail."

"Entirely," remarked Witherspoon. "Kindly go on!"

"Well," continued Tutt, "the law of this matter needs no elucidation. It has been settled since the time of Moses."

"Of whom?" inquired Witherspoon. "You don't need to go back farther than Chief Justice Marshall so far as I am concerned."

Tutt bowed.

“It is an established doctrine of the common law both of England and America that it is wholly proper for one to keep a domestic animal for his use, pleasure, or protection, until, as Dykeman, J., says in *Muller v. McKesson*, 10 Hun., 45, ‘some vicious propensity is developed and brought out to the knowledge of the owner.’ Up to that time the man who keeps a dog or other animal cannot be charged with liability for his acts. This has always been the law.

“In the twenty-first chapter of Exodus at the twenty-eighth verse it is written: ‘If an ox gore a man or a woman, that they die; then the ox shall be surely stoned, and his flesh shall not be eaten; but the owner of the ox shall be quit. But if the ox were wont to push with his horn in time past, and it hath been testified to his owner, and he hath not kept him in, but that he hath killed a man or a woman; the ox shall be stoned, and his owner also shall be put to death.’

“In the old English case of *Smith v. Pehal*, 2 Strange, 1264, it was said by the court: ‘If a dog has once bit a man, and the owner having notice thereof keeps the dog, and lets him go about or lie at his door, an action will lie against him at the suit of a person who is bit, though it happened by such person’s treading on the dog’s toes; for it was owing to his not hanging the dog on the first notice. And the safety of the king’s subjects ought not afterwards to be endangered.’ That is sound law; but it is equally good law that ‘if a person with full knowledge of the evil propensities of an animal wantonly excites him or voluntarily and unnecessarily puts himself in the way of such an animal he would be adjudged to have brought the injury upon himself, and ought not to be entitled to recover. In such a case it cannot be said in a legal sense that the keeping of the animal, which is the gravamen of the offense, produced the injury.’

“Now in the case at bar, first there is clearly no evidence that this defendant knew or ever suspected that the dog Andrew was otherwise than of a mild and gentle disposition. That is, there is no evidence whatever of *scienter*. In fact, except in this single instance there is no evidence that Andrew ever bit anybody. Thus, in the word of Holy Writ the defendant Appleboy should be quit, and in the language of our own courts he must be held harmless. Secondly, moreover, it appears that the complainant deliberately put himself in the way of the dog

Andrew, after full warning. I move that the jury be directed to return a verdict of not guilty."

"Motion granted," nodded Judge Witherspoon, burying his nose in his handkerchief. "I hold that every dog is entitled to one bite."

"Gentlemen of the jury," chanted the clerk: "How say you? Do you find the defendant guilty or not guilty?"

"Not guilty," returned the foreman eagerly, amid audible evidences of satisfaction from the Abyssinian brother, the *Baby's World* editor, and the others. Mr. Appleboy clung to Tutt's hand, overcome by emotion.

"Adjourn court!" ordered the judge. Then he beckoned to Mr. Appleboy. "Come up here!" he directed.

Timidly Mr. Appleboy approached the dais.

"Don't do it again!" remarked his Honor shortly.

"Eh? Beg pardon, your Honor, I mean——"

"I said: 'Don't do it again!'" repeated the judge with a twinkle in his eye. Then lowering his voice he whispered: "You see I come from Livonia, and I've known Andrew for a long time."

As Tutt guided the Appleboys out into the corridor the party came face to face with Mr. and Mrs. Tunnygate.

"Huh!" sneered Tunnygate.

"Huh!" retorted Appleboy.

KAREL CAPEK

MR. HAVLENA'S VERDICT

This story by Karel Capek (1890–1938), who won international recognition for satirical and humorous plays, novels, and short stories, deals with alleged slander spoken by a parrot.

“**T**ALKING ABOUT NEWSPAPERS,” said Mr. Beran, “what I think is this: Most people turn first of all to the police reports. It’s hard to say whether they’re so keen on reading them because of a suppressed desire to commit crime, or for their moral satisfaction and to increase their knowledge of law. What is certain is that they just gloat over them. That’s why the papers have to publish police reports every day. But now suppose, for example, the court vacations are on; the courts aren’t sitting, but there’s got to be a column of reports about them just the same. Or often enough there are no sensational cases on at any of the courts and the police-news reporter has got to have a sensational case, by hook or by crook. When things are like that, the reporters simply have to hatch out a sensational case for themselves. There’s a regular market for these sham cases and they’re bought, lent or exchanged at the rate of twenty cigarettes or so per item. I know all about it, because I used to share diggings with a police-news reporter; he was fond of booze and he was a slacker, but apart from that he was a fellow who had all his wits about him and who had a miserable screw.

“Now one day a queer sort of chap, down-at-heels, dirty and bloated, turned up in the café where the police-news reporters used to meet; his name was Havlena, he’d studied law but never finished it and he had altogether gone to the dogs; nobody knew exactly how he made a living—in fact, he didn’t quite know himself. Well, this fellow Havlena, this loafer was quite well up in criminal or legal matters; when this press-man I knew gave him a cigar and some beer, he would close his eyes, take a few puffs and begin to give the details of the finest and strangest criminal cases you could imagine; then he’d mention the chief points in the defense and quote the public prosecutor’s speech in reply, after

which he'd pass sentence in the name of the Republic. Then he'd open his eyes, as if he had just woken up, and growl: 'Lend me five crowns.' Once they put him through a test: At one sitting he invented twenty-one criminal cases, each one better than the one before it; but when he got to the twenty-second he stopped short and said: 'Wait a bit, this isn't a case for the petty sessions or even a bench of magistrates; it'd have to go before a jury; and I don't do juries.' You see he was against juries on principle. But to be fair to him, I must say that the sentences he passed, though a bit severe, were models of their kind from a legal point of view; he particularly prided himself on that.

"When the reporters discovered Havlena and saw that the cases he supplied them with were not so hackneyed and dull as those which actually came up before the courts, they formed a sort of trust. For every case which he thought out, Havlena got what they called a court fee, consisting of ten crowns and a cigar, and besides that, two crowns for every month's imprisonment which he imposed; you see, the heavier the sentence, the more difficult the case. The newspaper readers had never before got such a kick out of the police news as when Havlena was supplying his sham criminal cases. No, sir, and now the papers aren't nearly as good as they were in his time; now it's nothing but politics and lawsuits—Heaven alone knows who reads the stuff.

"Now one day Havlena thought out a case, which wasn't by far one of his best, and though up till then none of them had ever caused any trouble, this time the gaff was blown. Reduced to its lowest terms, the case was like this: An old bachelor had a row with a respectable widow who lived opposite him; so he got a parrot and trained it up, so that whenever the lady appeared on her balcony, it screeched out at the top of its voice: 'You slut!' The widow brought an action against him for through the agency of his parrot, had made a public laughingstock of defamation of character. The district court decided that the defendant, the prosecutrix, and in the name of the Republic, sentenced him to fourteen days' imprisonment with costs. 'Eleven crowns and a cigar, please,' said Havlena as a conclusion to the proceedings.

"This particular case appeared in about six newspapers, although it was written up in various ways. In one paper the heading was: 'Far From The Madding Crowd.' In another: 'Landlord and Poor Widow.' A third paper called it: 'Accusation against Parrot.' And so on. But

suddenly all these papers received a communication from the Ministry of Justice asking for particulars of the district court before which the charge of defamation of character, reported in number so-and-so of your esteemed journal, had been tried; the verdict and sentence should be appealed against, since the incriminating words had been uttered, not by the defendant, but by the parrot; that it could not be regarded as proven that the words uttered by the said parrot indubitably referred to the prosecutrix; that hence the words in question could not be regarded as defamation of character, but at the very utmost as disorderly conduct or a breach of the peace, which could have been dealt with by binding the defendant over, by duly imposing a fine, or by issuing a court order for the removal of the bird in question. The Ministry of Justice accordingly desired to know which district court had dealt with the case, in order that it might institute appropriate inquiries and so forth; in fact it was a regular official rumpus.

“‘Good Lord, Havlena, you haven’t half landed us in a mess,’ the reporters protested to their retailer. ‘Look here, that sentence you passed in the parrot case is illegal.’

“Havlena went as white as a sheet. ‘What,’ he shouted, ‘the sentence *I* passed is illegal. Holy Moses, the Ministry of Justice has got the cheek to tell me that?’ Me, Havlena?’ The reporters said they’d never seen a man so offended and angry. ‘I’ll give them what for,’ shouted Havlena, flying into a temper. ‘I’ll show them whether my verdict’s illegal or not! I’m not going to take this lying down.’—In his vexation and excitement he got terribly drunk; then he took a sheet of paper and for the benefit of the Ministry of Justice drew up a detailed legal statement to vindicate the verdict; in it he said by teaching his parrot to insult the lady the defendant had manifested his deliberate intention to insult and disparage her; that hence this was a clear case of unlawful intent; that the parrot was not the perpetrator of, but only the instrument for, the offense in question; and so forth. As a matter of fact, it was the most subtle and brilliant piece of legal reasoning which those reporters had ever seen. Whereupon he signed it with his full name, Václav Havlena, and sent it to the Ministry of Justice. ‘That’s that,’ he said, ‘and until the matter’s dealt with, I’m not going to give any more judgments; I must get satisfaction first.’

"As you can imagine, the Ministry of Justice took no notice whatever of Havlena's communication; meanwhile Havlena went about looking disgruntled and down in the mouth; he looked seedier than ever and got very thin. When he saw that he had no chance of getting any answer from the Ministry, he quite lost heart; he would spit silently or talk treason, and at last he declared: 'Just you wait, I'll show 'em yet who's in the right.'

"For two months they saw nothing of him; then he turned up again, beaming and smirking, and announced: 'Well, I've been served with a writ at last! Whew, damn that old woman, I had the deuce of a job before I could persuade her to do it. You wouldn't believe that an old girl like that could be so inoffensive; she made me sign a paper that whatever happened I'd foot the bill for her. Anyhow, boys, now it's going to be settled in court.'

" 'What is?' the reporters asked.

" 'Why, that affair with the parrot,' said Havlena. 'I told you I wouldn't let it slide. You see, I bought a parrot and taught it to say: "You slut! You wicked old geezer!" And a deuce of a job it was too, I tell you. For six weeks I didn't set foot outside the house and never uttered a word but: "You slut!" Anyway, now the parrot says it very nicely; the only thing is that the damned stupid bird keeps on shouting it the whole blessed day; it just wouldn't get into the way of only shouting at the woman who lives on the other side of the yard. She's an old girl who gives music lessons; she's seen better days, quite a good sort; but as there aren't any other females in the house, I had to pick on her for the defamation of character. I tell you, it's easy enough to think out an offense like that, but, holy Moses, when it comes to committing it, that's a very different thing. I just couldn't teach that brute of a parrot to call only her names. It calls everyone names. If you ask me, it does that out of sheer cussedness.'

"Then Havlena had a long drink and went on: 'So I tried a different wheeze; whenever the old lady showed her face at the window or in the yard I opened the window in double-quick time so as the parrot could shout at her: "You slut! You wicked old geezer!" And I'm blowed if the old girl didn't start laughing and called over to me: "Well I never, Mr. Havlena, what a nice little bird you've got!" 'Damn the old woman,' growled Mr. Havlena. 'I had to keep pegging away at her for a fort-

night, before she'd bring an action against me; but I've got witnesses from all over the house. Aha, and now it's going to be settled in court,' and Havlena rubbed his hands. 'I'll eat my hat if I'm not convicted for defamation of character. Those jacks-in-office won't get much change out of me!'

"Until the day when the case came on, Mr. Havlena drank like a fish; he was nervy and restless. In court he was quite the little gentleman; he made a biting speech against himself, referring to the evidence of all the people in the house that the insult was a disgraceful and flagrant one, and demanded the most exemplary penalty. The magistrate, quite a decent old fellow, stroked his beard and said that he would like to hear the parrot. So he adjourned the proceedings and instructed the defendant at the next hearing to bring the bird with him as an exhibit or, should the need arise, as a witness.

"Mr. Havlena appeared at the next hearing with the parrot in a cage. The parrot goggled its eyes at the frightened lady clerk and began to shriek with all its might: 'You slut! You wicked old geezer!'

" 'That's enough,' said the magistrate. 'The evidence of the parrot Lora makes it plain that the expression it used did not refer directly and unequivocally to the prosecutrix.'

"The parrot looked at him and yelled: 'You slut!'—'But it is obvious,' continued his worship, 'that it makes use of the expression in question toward all persons, irrespective of their sex. Accordingly there is an absence of contumelious intent, Mr. Havlena.'

"Havlena darted up as if he had been stung. 'Your worship,' he protested excitedly, 'the unlawful intent to cause annoyance is shown by the fact that I was in the habit of opening the window which gave access to the prosecutrix for the purpose of causing the parrot to bring her into contempt.'

" 'That's a moot point,' said his worship. 'The opening of the window possibly indicates some degree of unlawful intent, but in itself it is not a contumelious action. I cannot convict you for opening the window from time to time. You cannot prove that your parrot had the prosecutrix in mind, Mr. Havlena.'

" 'But *I* had her in mind,' urged Havlena in self-defense.

“‘We have no evidence as to that,’ demurred the magistrate. ‘Nobody heard you utter the incriminating expression. It’s no use, Mr. Havlena, I shall have to acquit you.’ Whereupon he pronounced judgment accordingly.

“‘And I beg to give notice of appeal against the acquittal,’ Havlena burst forth, snatched up the cage containing the bird and rushed out of court, nearly weeping with rage.

“After that they used to come across him here and there, fuddled and devil-may-care. ‘Do you call that justice?’ he would scream. ‘Is there any chance for a man to get his rights anywhere at all? But I won’t let matters rest there. I’ll have it brought up before the high court. I’ve got to get my own back for the way I’ve been made a fool of, even if I have to spend the rest of my life bringing actions. I’m not fighting for my cause, but for justice.’

“I don’t exactly know what happened in the appeal court; all I know is that Mr. Havlena’s appeal against his acquittal was dismissed. Then Havlena vanished into thin air; there were people who said they’d seen him loitering about the streets like a lost soul and muttering something to himself; I have also heard that to this very day the Ministry of Justice still receives several times a year, a long and furious petition headed: *Defamation of character committed by a parrot*. But Mr. Havlena has, once and for all, stopped supplying police-news reporters with cases; most likely because his faith in law and order has been rudely shaken.”

SIR ALAN P. HERBERT

**IN RE JOHN WALKER: PROHIBITION
AND BARBARISM**

While the common law is a favorite butt of Sir Alan's sarcasm, the story which follows assails, by way of an imaginary appellate decision of the House of Lords, the repealed Prohibition Amendment of the American Constitution and its statutory implementation by the Volstead Act.

THE HOUSE OF LORDS to-day delivered judgment in the Rum Row appeal.

The Lord Chancellor: My Lords, this appeal raises issues of profound gravity. In effect it is an action between the United States of America and His Majesty the King; and your decision must take account not only of municipal but international law and custom.

John Walker, a British citizen, was arrested at the instance of the United States representatives in this country, who demanded that he be extradited on a charge of murdering an American citizen. Mr. Walker is a mariner and trader; and he has long been engaged in the export trade, which is by all authorities acknowledged as the foundation of the prosperity of these islands. On the night of January 15th last he was proceeding peacefully towards the coast of America in a small craft which carried a cargo of whisky, the produce of Scotland. Without warning or provocation the occupants of an American vessel opened fire on Mr. Walker; and he, judging that he had to do with pirates or sea-rovers, returned their fire. An American citizen was killed. Mr. Walker returned safely to his country; and we are now asked to surrender his body for his trial and punishment by the American Courts.

It is a matter of dispute between the parties whether the conflict took place within the territorial waters of the United States or not. But, if my view of the case be correct, an affirmative answer to that question would not necessarily be decisive. It is true that we have agreed by a treaty of long standing to extradite, or deliver up—to use a more pleasing expression—all persons who, being charged with murder in American territory, shall seek asylum in our own. But it is necessary to con-

sider the nature of the practice of extradition. It is in essence a courtesy, an act done in derogation of sovereignty for the mutual convenience of civilized nations. Now, we say in our Courts that he who asks for equitable treatment must himself do equity.¹ In the same way, among nations, a privilege founded on the usages of civilization cannot properly be demanded by a barbarous nation nor for any purpose which runs counter to those usages. Slavery, for example, is an institution repellent to the consciences of all civilized nations, and if we were asked to deliver up to a foreign country a person claimed by that country as a slave we should without difficulty formulate a refusal, no matter what treaties appeared to bind us. Again, the country of Russia has adopted certain stringent laws against the practice of religion and the persons of its ministers, laws which in the judgment of civilized nations are barbarous and insupportable. I can imagine, my Lords, a Russian bishop in flight from the operation of those laws. I can imagine a British seaman, true to the traditions of his race, harbouring the reverend fugitive in his vessel and conveying him to the sanctuary of these islands; but I am unable, my Lords, to imagine the arguments which would prevail upon this honourable House to deliver up that mariner or that divine to the inhuman treatment of a Russian tribunal. If we were confronted with some old treaty we should reply that when that treaty was signed we did not contemplate that the other party to it was likely to sink into a condition of savagery, and that by that unfortunate relapse our obligations were extinguished.

Such is the nature of extradition. And now let us examine the grounds upon which we are invited to extradite our fellow-citizen.

The deceased American, it appears, was an officer of the Preventive or Revenue Department, and his particular function was to prevent and punish the importation of spirituous liquor into the territory of the United States. The authority under which he was acting at the time of his death was an enactment entitled the Eighteenth Amendment to the American Constitution, amplified and explained by the Volstead Act; and these laws are the embodiment of a policy called 'Prohibition', that is to say, the absolute prohibition of the importation, manufacture, sale, or consumption of what is strangely known as 'alcoholic liquor'.

¹ And see Bracton: '*Nemo nudus curiam appropinquare debet.*'

My Lords, in my judgment that policy and those decrees are contrary to the concerted usage of civilized nations. There are certain rights, customs, liberties, and practices which have been accepted by the enlightened peoples of the world as necessary to the life of civilized men. There is the right to personal freedom—the negation of which is slavery. There is the right to freedom of worship according to the conscience and belief of the individual—the negation of which is religious persecution. There is the right of all men to the peaceful use of the seas—the negation of which is piracy. And there is the right of free choice in such matters of personal behaviour, dress, and diet as do not affect the safety of the realm or the rights of other individuals—the negation of which is Prohibition.

My Lords, those who are guilty of slavery, piracy, or religious persecution are regarded rightly as *hostes humani generis*, outlaws of the world, persons who have violated the common laws of mankind. Such persons or peoples forfeit the rights which are commonly attached to nationality or sovereignty and may be apprehended or punished by the first-comer; and in that shameful category I include without hesitation those who are guilty of the policy or practice called Prohibition. My Lords, the use of wine is as old as the use of religion; freedom of behaviour is now as highly prized as freedom of the person, and, though I would not positively give the same value to all these rights, from a negative aspect there is nothing which justifies the violation of one more than the violation of another. It is intolerable that at the present stage of civilization peaceful traders should be assailed with fire-arms on the high seas for no offence other than the conveying from place to place of the wine of their own country. And (though this consideration has no juridical significance) such conduct must be particularly offensive to the people of these islands, whose fortunes for many centuries have been bound up with the practice of navigation and the distribution of their merchandise along the coasts of the world. Yet it is a nation confessedly guilty of such conduct which now demands of us a privilege extended, as a rule, *ex gratia* only, and only to a trusted friend.

The learned counsel who appeared for the United States pressed upon us the ingenious argument that Prohibition was to be regarded as a 'moral experiment' and therefore deserved our practical sympathy. This

argument did not impress me. The evidence is that this 'moral experiment' has been in fact productive of more death, degradation, and civil dissension than any enactment of recent times.¹ Apart from that I must remind your Lordships that the laws of Russia, already mentioned, are also commended by the Government of Russia as a 'moral experiment'. Yet, as I have already said, we should do nothing to support them. The question is not, How do the laws of a given country appear to the Government of that country? but, How do they appear to the eyes of the civilized world? It is conceivable, my Lords, that the Government of Italy might restore the institution of slavery; but, though they declared this act to be a 'moral experiment', we should not on that account extend our approval nor surrender our sovereign rights.

My Lords, I have no doubt that the Eighteenth Amendment is an offence against the customs of the civilized world, *jus gentium*. No other civilized nation has been guilty of this offence; and the nation guilty of it now must be considered as an international outlaw. It may take effect within the coasts of North America, but it cannot be acknowledged or condoned beyond them. It follows that individuals acting in pursuance of that enactment have, as against the nationals of other countries, no rights; they have the status of pirates, cannibals, marauding savages; and they may be shot down or apprehended by the decent citizens of any civilized nation. *A fortiori*, no application based upon a supposed injury done to them can be entertained by our Courts. The appeal must be allowed and Mr. Walker must be set at liberty. This, my Lords, with some reluctance, presiding over the highest tribunal of our land, I declare to be the law.

Lord Mulberry: I agree. But I arrive at the same conclusion by a simpler route. The evidence is clear that the deceased man was pursuing Mr. Walker, *animo furandi*, in order to take his cargo from him by force; I am satisfied that with that intention he opened fire on Mr. Walker outside the territorial waters of the United States, that is, on the high seas, and that he had frequently acted in this manner before. Now, all authorities agree that robbery, or forcible depredation upon the sea, *animo furandi*, is piracy. The deceased, therefore, was in fact, and in law, a pirate; and the somewhat fanciful analogies of the Lord Chancellor are not required in order to bring him within that

¹ 'O Temperance! O Mores!' Evidence of Mr. Albert Haddock before the Royal Commission on the Licensing Laws (1929-31)

detestable category. Mr. Justice Lushington, in *The Magellan Pirates*, 1853 (1 Spinks's Eccl. and Adm. Rep., 81) said: ' . . . all persons are held to be pirates who are found guilty of piratical acts, and piratical acts are robbery and murder on the high seas. I do not believe that, even where human life was at stake, our courts of Common Law ever thought it necessary to extend their inquiry further if it was clearly proved against the accused that they had committed robbery and murder on the high seas. In that case they were adjudged to be pirates and suffered accordingly.' The Common Law is clear, and I know of no treaty or statute which can be held to have superseded it. Mr. Walker did what he did in self-defence against the assaults of a pirate, and he must be released.

Lord Lick, Lord Arrowroot, and Lord Sheep concurred.

NOTE—The opinions expressed by the Lord Chancellor prevailed at last in North America, and in 1933 the Eighteenth Amendment was repealed. Relations between Great Britain and the United States at once improved, and lawlessness in the latter country began to abate. See Philip Snowden's *Essays on Wine*: 'By what right do we call ourselves Free Traders if the goodliest of all commodities may not freely circulate?'; and Senator Honk: 'America's history began when we threw the tea into the water: it ended when we threw the wine.' See also A. Capone's *Handbook for Bootleggers*; and Mrs. Q. Fester: 'A generation is growing up which does not know what alcohol is' (*White Wings*).

Contemporary Tales

SHIGA NAOYA

THE DEATH OF THE KNIFE-
THROWER'S WIFE

Was the death of the wife of Han, a Chinese juggler and knife-thrower, intentionally caused? Or was it an accident which made reality of Han's wish? Han himself didn't know the answer, and the judge at his trial couldn't see a clear solution. This fascinating psychological problem is the focus of the Japanese Shiga Naoya's story, *The Death of the Knife-Thrower's Wife*.

MUCH TO EVERYONE'S ASTONISHMENT, the young Chinese juggler, Han, severed his wife's carotid artery with one of his heavy knives in the course of a performance. The young woman died on the spot. Han was immediately arrested.

At the scene of the event were the director of the theatre, Han's Chinese assistant, the announcer, and more than three hundred spectators. There was also a policeman who had been stationed behind the audience. Despite the presence of all these witnesses, it was a complete mystery whether the killing had been intentional or accidental.

Han's act was as follows: his wife would stand in front of a wooden board about the size of a door, and from a distance of approximately four yards, he would throw his large knives at her so that they stuck in the board about two inches apart, forming a contour around her body. As each knife left his hand, he would let out a staccato exclamation as if to punctuate his performance.

The examining judge first questioned the director of the theatre.

"Would you say that this was a very difficult act?"

"No, Your Honor, it's not as difficult as all that for an experienced performer. But to do it properly, you need steady nerves and complete concentration."

"I see. Then assuming that what happened was an accident, it was an extremely unlikely type of accident?"

"Yes, indeed, Your Honor. If accidents were not so very unlikely, I should never have allowed the act in my theatre."

"Well, then, do you consider that this was done on purpose?"

"No, Your Honor, I do not. And for this reason: an act of this kind performed at a distance of twelve feet requires not only skill but at the same time a certain—well, intuitive sense. It is true that we all thought a mistake virtually out of the question, but after what has happened, I think we must admit that there was always the possibility of a mistake."

"Well, then, which do you think it was—a mistake or on purpose?"

"That I simply cannot say, Your Honor."

The judge felt puzzled. Here was a clear case of homicide, but whether it was manslaughter or premeditated murder it was impossible to tell. If a murder, it was indeed a clever one, thought the judge.

Next the judge decided to question the Chinese assistant, who had worked with Han for many years past.

"What was Han's normal behavior?" he asked.

"He was always very correct, Your Honor; he didn't gamble or drink or run after women. Besides, last year he took up Christianity. He studied English and in his free time always seemed to be reading collections of sermons—the Bible and that sort of thing."

"And what about his wife's behavior?"

"Also very correct, Your Honor. Strolling players aren't always the most moral people, as you know. Mrs. Han was a pretty little woman and quite a few men used to make propositions to her, but she never paid the slightest attention to that kind of thing."

"And what sort of temperaments did they have?"

"Always very kind and gentle, sir. They were extremely good to all their friends and acquaintances and never quarreled with anyone. But—" He broke off and reflected a moment before continuing. "Your Honor, I'm afraid that if I tell you this, it may go badly for Han. But to be quite truthful, these two people, who were so gentle and unselfish to others, were amazingly cruel in their relations to each other."

"Why was that?"

"I don't know, Your Honor."

"Was that the case ever since you first knew them?"

"No, Your Honor. About two years ago, Mrs. Han was pregnant. The child was born prematurely and died after about three days. That marked a change in their relations. They began having terrible rows over the most trivial things, and Han's face used to turn white as a sheet. He always ended by suddenly growing silent. He never once raised his hand against her or anything like that—I suppose it would have gone against his principles. But when you looked at him, Your Honor, you could see the terrible anger in his eyes! It was quite frightening at times.

"One day, I asked Han why he didn't separate from his wife, seeing that things were so bad between them. Well, he told me that he had no real grounds for divorce, even though his love for her had died. Of course, she felt this and gradually stopped loving him, too. He told me all this himself. I think the reason he began reading the Bible and all those sermons was to calm the violence in his heart and stop himself from hating his wife, whom he had no real cause to hate. Mrs. Han was really a pathetic woman. She had been with Han nearly three years and had traveled all over the country with him as a strolling player. If she'd ever left Han and gone back home, I don't think she'd have found it easy to get married. How many men would trust a woman who'd spent all that time traveling about? I suppose that's why she stayed with Han, even though they got on so badly?"

"And what do you really think about this killing?"

"You mean, Your Honor, do I think it was an accident or done on purpose?"

"That's right."

"Well, sir, I've been thinking about it from every angle since the day it happened. The more I think, the less I know what to make of it. I've talked about it with the announcer, and he also says he can't understand what happened."

"Very well. But tell me this: at the actual moment it did happen, did it occur to you to wonder whether it was accidental or on purpose?"

"Yes, sir, it did. I thought—I thought, 'He's gone and killed her.'"

"On purpose, you mean?"

"Yes, sir. However, the announcer says that he thought, 'His hand's slipped.' "

"Yes, but he didn't know about their everyday relations as you did."

"That may be, Your Honor. But afterward I wondered if it wasn't just because I did know about those relations that I thought, 'He's killed her.' "

"What were Han's reactions at the moment?"

"He cried out, 'Ha.' As soon as I heard that, I looked up and saw blood gushing from his wife's throat. For a few seconds, she kept standing there, then her knees seemed to fold up under her and her body swayed forward. When the knife fell out, she collapsed on the floor, all crumpled in a heap. Of course there was nothing any of us could do—we just sat there petrified, staring at her. . . . As to Han, I really can't describe his reactions, for I wasn't looking at him. It was only when the thought struck me, 'He's finally gone and killed her,' that I glanced at him. His face was dead white and his eyes closed. The stage manager lowered the curtain. When they picked up Mrs. Han's body, she was already dead. Han dropped to his knees then, and for a long time he went on praying in silence."

"Did he appear very upset?"

"Yes, sir, he was quite upset."

"Very well. If I have anything further to ask you, I shall call for you again."

The judge dismissed the Chinese assistant and now summoned Han himself to the stand. The juggler's intelligent face was drawn and pale; one could tell right away that he was in a state of nervous exhaustion.

"I have already questioned the director of the theatre and your assistant," said the judge when Han had taken his place in the witness box. "I now propose to examine you."

Han bowed his head.

"Tell me," said the judge. "Did you at any time love your wife?"

"From the day of our marriage until the child was born, I loved her with all my heart."

"And why did the birth of the child change things?"

"Because I knew it was not mine."

"Did you know who the other man was?"

"I had a very good idea. I think it was my wife's cousin."

"Did you know him personally?"

"He was a close friend. It was he who first suggested that we get married. It was he who urged me to marry her."

"I presume that his relations with her occurred prior to your marriage."

"Yes, sir. The child was born eight months after we were married."

"According to your assistant, it was a premature birth."

"That is what I told everyone."

"The child died very soon after birth, did it not? What was the cause of death?"

"He was smothered by his mother's breasts."

"Did your wife do that on purpose?"

"She said it was an accident."

The judge was silent and looked fixedly at Han's face. Han raised his head but kept his eyes lowered as he awaited the next question. The judge continued:

"Did your wife confess these relations to you?"

"She did not confess, nor did I ever ask her about them. The child's death seemed like retribution for everything and I decided that I should be as magnanimous as possible, but—"

"But in the end, you were unable to be magnanimous?"

"That's right. I could not help thinking that the death of the child was insufficient retribution. When apart from my wife, I was able to reason calmly, but as soon as I saw her, something happened inside me. When I saw her body, my temper would begin to rise."

"Didn't divorce occur to you?"

"I often thought that I should like to have a divorce, but I never mentioned it to my wife. My wife used to say that if I left her, she could no longer exist."

"Did she love you?"

"She did not love me."

"Then why did she say such things?"

"I think she was referring to the material means of existence. Her home had been ruined by her elder brother, and she knew that no serious man would want to marry a woman who had been the wife of a strolling player. Also, her feet were too small for her to do any ordinary work."

"What were your physical relations?"

"I imagine about the same as with most couples."

"Did your wife have any real liking for you?"

"I do not think she really liked me. In fact, I think it must have been very painful for her to live with me as my wife. Still, she endured it. She endured it with a degree of patience almost unthinkable for a man. She used to observe me with a cold, cruel look in her eyes as my life gradually went to pieces. She never showed a flicker of sympathy as she saw me struggling in agony to escape into a better, truer sort of existence."

"Why could you not take some decisive action—have it out with her, or even leave her, if necessary?"

"Because my mind was full of all sorts of ideals."

"What ideals?"

"I wanted to behave toward my wife in such a way that there would be no wrong on my side. . . . But in the end it didn't work."

"Did you never think of killing your wife?"

Han did not answer and the judge repeated his question. After a long pause, Han replied:

"Before the idea of killing her occurred to me, I often used to think it would be a good thing if she died."

"Well, in that case, if it had not been against the law, don't you think you might have killed her?"

"I wasn't thinking in terms of the law, sir. That's not what stopped me. It was just that I was weak. At the same time, I had this overmastering desire to enter into a truer sort of life."

"Nevertheless, you did think of killing your wife, did you not—later on, I mean?"

"I never made up my mind to do it. But, yes, it is correct to say that I did think about it once."

"How long was that before the event?"

"The previous night. . . . Or perhaps even the same morning."

"Had you been quarreling?"

"Yes, sir."

"What about?"

"About something so petty that it's hardly worth mentioning."

"Try telling me about it."

"It was a question of food. I get rather short-tempered when I haven't eaten for some time. Well, that evening my wife had been dawdling and our supper wasn't ready when it should have been. I got very angry."

"Were you more violent than usual?"

"No, but afterward I still felt worked up, which was unusual. I suppose it was because I'd been worrying so much during those past weeks about making a better existence for myself, and realizing there was nothing I could do about it. I went to bed but couldn't get to sleep. All sorts of upsetting thoughts went through my mind. I began to feel that whatever I did, I should never be able to achieve the things I really wanted—that however hard I tried, I should never be able to escape from all the hateful aspects of my present life. This sad, hopeless state of affairs all seemed connected with my marriage. I desperately wanted to find a chink of light to lead me out of my darkness, but even this desire was gradually being extinguished. The hope of escape still flickered and sputtered within me, and I knew that if ever it should go out, I would to all intents and purposes be a dead person.

"And then the ugly thought began flitting through my mind: 'If only she would die! If only she would die! Why should I not kill her?'" The practical consequence of such a crime meant nothing to me any longer. No doubt I would go to prison, but life in prison could not be worse—could only be better—than this present existence. And

yet somehow I had the feeling that killing my wife would solve nothing. It would have been a shirking of the issue, in the same way as suicide. I must go through each day's suffering as it came, I told myself; there was no way to circumvent that. That had become my true life: to suffer.

"As my mind raced along these tracks, I almost forgot that the cause of my suffering lay beside me. Utterly exhausted, I lay there unable to sleep. I fell into a blank state of stupefaction, and as my tortured mind turned numb, the idea of killing my wife gradually faded. Then I was overcome by the sad, empty feeling that follows a nightmare. I thought of all my fine resolutions for a better life, and realized that I was too weakhearted to attain it. When dawn finally broke, I saw that my wife, also, had not been sleeping. . . ."

"When you got up, did you behave normally toward each other?"

"We did not say a single word to each other."

"But why didn't you think of leaving her, when things had come to this?"

"Do you mean, Your Honor, that that would have been a solution of my problem? No, no, that too would have been a shirking of the issue! As I told you, I was determined to behave toward my wife so that there would be no wrong on my side."

Han gazed earnestly at the judge, who nodded his head as a sign for him to continue.

"Next day I was physically exhausted and of course my nerves were ragged. It was agony for me to remain still, and as soon as I had got dressed, I left the house and wandered aimlessly about the deserted parts of town. Constantly the thought kept returning that I must do something to solve my life, but the idea of killing no longer occurred to me. The truth is that there was a chasm between my thoughts of murder the night before and any actual decision to commit a crime! Indeed, I never even thought about that evening's performance. If I had, I certainly would have decided to leave out the knife-throwing act. There were dozens of other acts that could have been substituted.

"Well, the evening came and finally it was our turn to appear on the stage. I did not have the slightest premonition that anything out of the ordinary was to happen. As usual, I demonstrated to the

audience the sharpness of my knives by slicing pieces of paper and throwing some of the knives at the floor boards. Presently my wife appeared, heavily made up and wearing an elaborate Chinese costume; after greeting the audience with her charming smile, she took up her position in front of the board. I picked up one of the knives and placed myself at the distance from her.

"That's when our eyes met for the first time since the previous evening. At once I understood the risk of having chosen this particular act for that night's performance! Obviously I would have to master my nerves, yet the exhaustion which had penetrated to the very marrow of my bones prevented me. I sensed that I could no longer trust my own arm. To calm myself, I closed my eyes for a moment, and I sensed that my whole body was trembling.

"Now the time had come! I aimed my first knife above her head; it struck just one inch higher than usual. My wife raised her arms and I prepared to throw my next two knives under each of her arms. As the first one left the ends of my fingers, I felt as if something were holding it back; I no longer had the sense of being able to determine the exact destination of my knives. It was now really a matter of luck if the knife struck at the point intended; each of my movements had become deliberate and self-conscious.

"I threw one knife to the left of my wife's neck and was about to throw another to the right when I saw a strange expression in her eyes. She seemed to be seized by a paroxysm of fear! Did she have a presentiment that this knife, that in a matter of seconds would come hurtling toward her, was going to lodge in her throat? I felt dizzy, as if about to faint. Forcing the knife deliberately out of my hand, I as good as aimed it into space. . . ."

The judge was silent, peering intently at Han.

"All at once the thought came to me: 'I've killed her,' " said Han abruptly.

"On purpose, you mean?"

"Yes. Suddenly I felt that I had done it on purpose."

"After that I understand you knelt down beside your wife's body and prayed in silence."

“Yes, sir. That was a rather cunning device that occurred to me on the spur of the moment. I realized that everyone knew me as a believer in Christianity. But while I was making a pretense of praying, I was in fact carefully calculating what attitude to adopt.”

“So you were absolutely convinced that what you had done was on purpose?”

“I was. But I realized at once that I should be able to pretend it had been an accident.”

“And why did you think it had been on purpose?”

“I had lost all sense of judgment.”

“Did you think you’d succeeded in giving the impression it was an accident?”

“Yes, though when I thought about it afterward it made my flesh creep. I pretended as convincingly as I could to be grief-stricken, but if there’d been just one really sharp-witted person about, he’d have realized right away that I was only acting. Well, that evening I decided that there was no good reason why I should not be acquitted; I told myself very calmly that there wasn’t a shred of material evidence against me. To be sure, everyone knew how badly I got on with my wife, but if I persisted in saying that it was an accident, no one could prove the contrary. Going over in my mind everything that had happened, I saw that my wife’s death could be explained very plausibly as an accident.

“And then a strange question came to my mind: why did I myself believe that it had *not* been an accident? The previous night I had thought about killing her, but might it not be that very fact which now caused me to think of my act as deliberate? Gradually I came to the point that I myself did not know what actually had happened! At that I became very happy—almost unbearably happy. I wanted to shout at the top of my lungs.”

“Because you had come to consider it an accident?”

“No, that I can’t say. Because I no longer had the slightest idea as to whether it had been intentional or not. So I decided that my best way of being acquitted would be to make a clean breast of everything. Rather than deceive myself and everyone else by saying it was an

accident, why not be completely honest and say I did not know what happened? I cannot declare it was a mistake; on the other hand, I can't admit it was intentional. In fact, I can plead neither 'guilty' nor 'not guilty.' ”

Han was silent. The judge, too, remained silent for a long moment before saying softly, reflectively, “I believe that what you have told me is true. Just one more question: do you not feel the slightest sorrow for your wife's death?”

“None at all! Even when I hated my wife most bitterly in the past, I never could have imagined I would feel such happiness in talking about her death.”

“Very well,” said the judge. “You may stand down.”

Han silently lowered his head and left the room. Feeling strangely moved, the judge reached for his pen. On the document which lay on the table before him he wrote down the words “Not guilty.”

—*Translated from Japanese by Ivan Morris*

SIR ALAN HERBERT

**FARDELL v. POTTS: THE
REASONABLE MAN**

Sir Alan P. Herbert, a distinguished British politician, has drawn on his legal background in creating many parodies of the law, most of which have been published in the world-famed British magazine of humor and satire, "Punch," and in his book entitled *Uncommon Law*. The best known of these satirical vignettes follows. The target of its darts is the "reasonable man" who is a ubiquitous, though highly artificial, feature of Anglo-American jurisprudence.

THE COURT OF APPEAL to-day delivered judgment in this important case.

The Master of the Rolls: In this case the appellant was a Mrs. Fardell, a woman, who, while navigating a motor-launch on the River Thames, collided with the respondent, who was navigating a punt, as a result of which the respondent was immersed and caught cold. The respondent brought an action for damages, in which it was alleged that the collision and subsequent immersion were caused by the negligent navigation of the appellant. In the Court below the learned judge decided that there was evidence on which the jury might find that the defendant had not taken reasonable care, and, being of that opinion, very properly left to the jury the question whether in fact she had failed to use reasonable care or not. The jury found for the plaintiff and awarded him two hundred and fifty pounds damages. This verdict we are asked to set aside on the ground of misdirection by the learned judge, the contention being that the case should never have been allowed to go to the jury; and this contention is supported by a somewhat novel proposition, which has been ably, though tediously, argued by Sir Ethelred Rutt.

The Common Law of England has been laboriously built about a mythical figure—the figure of ‘The Reasonable Man’. In the field of jurisprudence this legendary individual occupies the place which in another science is held by the Economic Man, and in social and political discussions by the Average or Plain Man. He is an ideal, a standard, the embodiment of all those qualities which we demand of the good citizen. No matter what may be the particular department of human life which falls to be considered in these Courts, sooner or later we have to face the question: Was this or was it not the conduct of a

reasonable man? Did the defendant take such care to avoid shooting the plaintiff in the stomach as might reasonably be expected of a reasonable man? (*Moocat v. Radley* (1883) 2 Q.B.) Did the plaintiff take such precautions to inform himself of the circumstances as any reasonable man would expect of an ordinary person having the ordinary knowledge of an ordinary person of the habits of wild bulls when goaded with garden-forks and the persistent agitation of red flags? (*Williams v. Dogbody* (1841) 2 A.C.)

I need not multiply examples. It is impossible to travel anywhere or to travel for long in that confusing forest of learned judgments which constitutes the Common Law of England without encountering the Reasonable Man. He is at every turn, an ever-present help in time of trouble, and his apparitions mark the road to equity and right. There has never been a problem, however difficult, which His Majesty's judges have not in the end been able to resolve by asking themselves the simple question, 'Was this or was it not the conduct of a reasonable man?' and leaving that question to be answered by the jury.

This noble creature stands in singular contrast to his kinsman the Economic Man, whose every action is prompted by the single spur of selfish advantage and directed to the single end of monetary gain. The Reasonable Man is always thinking of others; prudence is his guide, and 'Safety First', if I may borrow a contemporary catchword, is his rule of life. All solid virtues are his, save only that peculiar quality by which the affection of other men is won. For it will not be pretended that socially he is much less objectionable than the Economic Man. Though any given example of his behaviour must command our admiration, when taken in the mass his acts create a very different set of impressions. He is one who invariably looks where he is going, and is careful to examine the immediate foreground before he executes a leap or bound; who neither star-gazes nor is lost in meditation when approaching trap-doors or the margin of a dock; who records in every case upon the counterfoils of cheques such ample details as are desirable, scrupulously substitutes the word 'Order' for the word 'Bearer', crosses the instrument 'a/c Payee only', and registers the package in which it is despatched; who never mounts a moving omnibus, and does not alight from any car while the train is in motion; who investigates exhaustively the *bona fides* of every mendicant before distributing alms,

and will inform himself of the history and habits of a dog before administering a caress; who believes no gossip, nor repeats it, without firm basis for believing it to be true; who never drives his ball till those in front of him definitely vacated the putting-green which is his own objective; who never from one year's end to another makes an excessive demand upon his wife, his neighbours, his servants, his ox, or his ass; who in the way of business looks only for that narrow margin of profit which twelve men such as himself would reckon to be 'fair', and contemplates his fellow-merchants, their agents, and their goods, with that degree of suspicion and distrust which the law deems admirable; who never swears, gambles, or loses his temper; who uses nothing except in moderation, and even while he flogs his child is meditating only on the golden mean. Devoid, in short, of any human weakness, with not one single saving vice, *sans* prejudice, procrastination, ill-nature, avarice, and absence of mind, as careful for his own safety as he is for that of others, this excellent but odious character stands like a monument in our Courts of Justice, vainly appealing to his fellow-citizens to order their lives after his own example.

I have called him a myth; and, in so far as there are few, if any, of his mind and temperament to be found in the ranks of living men, the title is well chosen. But it is a myth which rests upon solid and even, it may be, upon permanent foundations. The Reasonable Man is fed and kept alive by the most valued and enduring of our juridical institutions—the common jury. Hateful as he must necessarily be to any ordinary citizen who privately considers him, it is a curious paradox that where two or three are gathered together in one place they will with one accord pretend an admiration for him; and, when they are gathered together in the formidable surroundings of a British jury, they are easily persuaded that they themselves are, each and generally, reasonable men. Without stopping to consider how strange a chance it must have been that has picked fortuitously from a whole people no fewer than twelve examples of a species so rare, they immediately invest themselves with the attributes of the Reasonable Man, and are therefore at one with the Courts in their anxiety to support the tradition that such a being in fact exists. Thus it is that while the Economic Man has under the stress of modern conditions almost wholly disappeared from view his Reasonable cousin has gained in power with every case in which he has figured.

To return, however, as every judge must ultimately return, to the case which is before us—it has been urged for the appellant, and my own researches incline me to agree, that in all that mass of authorities which bears upon this branch of the law *there is no single mention of a reasonable woman*. It was ably insisted before us that such an omission, extending over a century and more of judicial pronouncements, must be something more than a coincidence; that among the innumerable tributes to the reasonable man there might be expected at least some passing reference to a reasonable person of the opposite sex; that no such reference is found, for the simple reason that no such being is contemplated by the law; that legally at least there *is* no reasonable woman, and that therefore in this case the learned judge should have directed the jury that, while there was evidence on which they might find that the defendant had not come up to the standard required of a reasonable man, her conduct was only what was to be expected of a woman, as such.

It must be conceded at once that there is merit in this contention, however unpalatable it may at first appear. The appellant relies largely on *Baxter's Case*, 1639 (2 Bole, at page 100), in which it was held that for the purposes of *estover* the wife of a tenant by the mesne was at law in the same position as an ox or other *cattle demenant* (to which a modern parallel may perhaps be found in the statutory regulations of many railway companies, whereby, for the purposes of freight, a typewriter is counted as a musical instrument). It is probably no mere chance that in our legal text-books the problems relating to married women are usually considered immediately after the pages devoted to idiots and lunatics. Indeed, there is respectable authority for saying that at Common Law this was the status of a woman. Recent legislation has whittled away a great part of this venerable conception, but so far as concerns the law of negligence, which is our present consideration, I am persuaded that it remains intact. It is no bad thing that the law of the land should here and there conform with the known facts of everyday experience. The view that there exists a class of beings, illogical, impulsive, careless, irresponsible, extravagant, prejudiced, and vain, free for the most part from those worthy and repellent excellences which distinguish the Reasonable Man, and devoted to the irrational arts of pleasure and attraction, is one which should be as welcome and as well accepted in our Courts as it is in our drawing-rooms—and even

in Parliament. The odd stipulation is often heard there that some new Committee or Council shall consist of so many persons 'one of which must be a woman': the assumption being that upon scientific principles of selection no woman would be added to a body having serious deliberative functions. That assumption, which is at once accepted and resented by those who maintain the complete equality of the sexes, is not founded, as they suppose, in some prejudice of Man but in the considered judgments of Nature. I find that at Common Law a reasonable woman does not exist. The contention of the respondent fails and the appeal must be allowed. Costs to be costs in the action, above and below, but not costs in the case.

Bungay, L. J., and Blow, L. J., concurred.

ARTHUR TRAIN

HIS HONOR, THE JUDGE

Arthur Train (1875–1945) was an erudite American lawyer who gained enduring literary fame from his stories of the life and times of the fictional attorney, Ephraim Tutt. One of the finest of these stories follows. Its focus: the question whether the so-called “dying declaration” exception to the hearsay rule should be limited to a dying person’s statement regarding the cause of his own death or extended to a dying person’s declaration regarding the cause of death of another.

"There are two kinds of lawyers,—one who knows the law, the other who knows the judge."—JOSEPH H. CHOATE

JUDGE RUFUS BUNBURY caught sight of a ramshackly figure scuttling through the crowd like a land crab toward the door of the General Sessions, and rapped with his gavel.

"Come back here, Mr. Tutt!" he ordered good-naturedly. "I'm going to assign you as counsel to the defense."

It was just what Mr. Tutt had feared, for he knew that the prosecutor had it in for him and that this would be a swell chance for O'Brien to hang another scalp on his belt. His attempted getaway having been frustrated, he straightened up and faced the bench.

"Your Honor, I am an old man, stricken in years and bowed down with the sorrows of the world. I beg that you will not add to my already grievous burdens."

"This defendant is entitled to the best counsel the State can offer. I am paying you a compliment."

"One I could easily do without," muttered the lawyer.

He had read about the case in the papers. Joe Cotillo, alias Joe the Barber, had been a powerful and sinister character on the Italian East Side, mixed up in every sort of racket. The defendant, James Gavin, one of his underlings, had been previously convicted and sentenced to prison for having policy slips in his possession. A year later, two nights after his discharge, he had gone to the Barber's hangout, shot him, and been arrested as he fled from the apartment. The case was dead open

and shut. No wonder Gavin couldn't get a lawyer to defend him. He hardly glanced at his new client as he took his place beside him at the bar.

"We plead not guilty," he told the clerk. Then to the prisoner,

"My assistant, Mr. Doon, will be over to see you shortly in the Tombs."

"Next!" The dejected file of prisoners inched along as James Gavin was led away.

Judge Bunbury watched him curiously, struck by the fact that a murderer so rarely looked the part. It was hard for him to imagine this young fellow, with his gaunt, frightened face, killing any one. Certainly he was a queer type to be mixed up in the numbers racket.

The Honorable Rufus, on the other hand, looked exactly like a judge. He was fifty-one years old, portly, with a clean-shaven, rather flabby face, pale blue eyes and an impressive dome streaked with thin gray hair and dotted with liver spots. His elevation to the bench had been largely due to his appearance, since in a world of roughnecks he was considered good political window dressing. As a result of this biological accident, he had drawn a salary of twenty-five thousand dollars per annum for the last fourteen years,—a total of three hundred and fifty thousand dollars in return for sitting in court five hours a day, five days in the week, for nine months of the year. This was the reason why, at his last college reunion, he had been voted the most successful man in his class. "Three cheers for good old Rufus!"

He was a kindly, well-intentioned man, devoted to his wife and children—three boys and two little girls—all of whom adored him, and most of his salary went into sending the three older ones to school and college and making a comfortable home for the others. He liked to think of himself as impartial and courageous, but since he was dependent upon the district attorney for all important cases, he was apt to rule in the latter's favor on doubtful points, endeavoring to even things up after conviction by "tempering justice with mercy." Occasionally he was a little troubled as to what justice was. Certainly the law was by no means always just, nor the district attorney either, but although he often would have liked to take things into his own hands and tell them both to go hang, he never was quite brave enough to do so.

Judge Bunbury knew that he was not an admirable person, but, being a pragmatist, whenever his conscience reared its head he pushed it gently down. He had been contented and happy in his sinecure for more than thirteen years when he suddenly realized that, unless he was re-elected the next November, his life of comfort would come to an abrupt end. The mere thought of no longer being on the bench threw him into a cold sweat. What on earth would happen to him? He had laid nothing by and it was doubtful if he could earn a living. He often thought, when humiliated by O'Brien's arrogance, Once I'm re-elected, I'll show that legal ape where he gets off.

Now, as James Gavin disappeared behind the little door leading to the Tombs, The Ape gave him a confidential nod.

"That baby is halfway to the hot squat already," he remarked with a gummy grin.

Judge Bunbury smiled faintly in response.

"Please, sir, are you the lawyer who's going to defend my husband?"

The woman who accosted Mr. Tutt in the courthouse corridor had the same haunted look as the prisoner, the dry, lusterless complexion due to undernourishment. A scrawny child clung to her dress.

"If you're Mrs. Gavin, I am."

"Well, he's not guilty! He's one of the best men who ever lived!"

Mr. Tutt was still angry over what Bunbury and O'Brien had put over on him.

"Is that why he went into the policy racket?" he countered.

The woman winced. "No, it wasn't!" she retorted fiercely. "He got drawn into it. He couldn't bear to see Gracie and me go hungry, so, when Mr. Cotillo offered him a job, he jumped at it. He didn't know——" Her voice faded out and she leaned weakly against the adjacent pillar.

Mr. Tutt's heart melted. What if her husband had killed Cotillo?

"Let's go across the street and get a bite of lunch," he said gently. "One can't prepare a case on an empty stomach."

Mother and child wolfed the food. Crime obviously had not paid, so far as the Gavins were concerned. The woman's story was that,

her husband having lost his job as a bookkeeper, they had gone on relief until Cotillo had offered to employ him as a messenger. He did not suspect that he was, in fact, a runner for the numbers. When he had found it out and given notice that he wanted to quit, the cops had suddenly jumped on his neck and charged him with carrying policy slips. He realized that Cotillo had turned him in to get him out of the way, and had threatened to get even, but he couldn't prove anything, and when, having no defense, Cotillo's lawyer had agreed that, if he'd take the rap, The Boss would look out for the family while he was away and find him an honest job afterward, he had pleaded guilty.

So far, it was sufficiently plausible, but her explanation of her husband's connection with the homicide was less satisfactory, being nothing more than a vehement denial that he could possibly have done such a thing. He had never owned a pistol. Surely any good lawyer could make the jury see that it must be all a mistake on the part of the police. Mr. Tutt, promising to do his best, gave her ten dollars and sent her home. No wonder O'Brien had wished the case on him.

He found Bonnie Doon gloomily awaiting him at the office. "A nice juicy lemon they've handed us! Gavin is as guilty as hell!" declared his henchman. "The evidence is ironclad. Cotillo's office was in a three-room corner flat that used to belong to a doctor, on the ground floor of a small apartment house. You can go in either through the foyer or by a private entrance on the side street. That's the one Cotillo used mostly. Gavin's story is that, not wanting to embarrass the boss, he waits until about midnight and goes in the side door, which opens into a sort of vestibule. He is just about to press the office bell when he hears a shot inside. Naturally, he's scared stiff. He don't know what's happened, and don't want to. So he beats it out the way he came and runs straight into the cops. He claims the guy that did it must have got away through the other door, that leads into the foyer."

"In that case, wouldn't the doorman have seen him?"

"You'd certainly think so. But Gavin says the Negro was upstairs with the elevator."

Mr. Tutt sent the wastebasket spinning across the room. "Jumping Jehoshaphat! They can prove motive, threats, actual presence at the scene of the crime! They've got everything!"

"Everything except the gun. That hasn't been turned up as yet."

Mr. Tutt sat up with a jerk. "What's that? They haven't found the gun? Why didn't you tell me that before? We've got to find it!"

"Oh, yeah?" sarcastically inquired Mr. Doon. "I suppose all we've got to do is to put an ad in the papers: 'Will party who murdered Joe the Barber kindly return weapon used and receive ten dollars reward? No questions asked.'"

As Mr. Tutt had expected, *People vs. Gavin* was rushed to the top of the calendar. To convict the murderer of a big shot like Cotillo was almost as good as convicting the racketeer himself. With the autumn elections in sight, Assistant District Attorney O'Brien had no intention of allowing public attention to subside. A few nights later, while sitting in his library pondering what possible defense he could put in, the old man was called to the telephone.

"Don't ask my name," said a quiet voice, "but I have just left the bedside of a dying man who is anxious to give you information which will exonerate your client. There is no time to be lost. Some one will call for you immediately and take you to him. Ask no questions, go alone, and may God be with you!" There was a click at the other end. Less than two minutes later the area bell rang. Grabbing his overcoat and stovepipe hat, Mr. Tutt hurried downstairs. A taxi was drawn up to the curb, and beside it stood a man in a heavy ulster, a soft cap over his eyes.

"Get in and keep your mouth shut!" he directed, shoving a hard object against the old man's hip. The cab twisted and turned through unfamiliar streets, until at the end of ten minutes it stopped and the man in the cap cautiously opened the door.

"Four flights up in the rear. I'll be waiting for you," he said.

Mr. Tutt was in a cluttered courtyard surrounded by shabby tenement houses. He was not given to considering his personal safety, but as he dragged himself up the narrow stairs into what seemed an eternity of obscurity, he realized that in such a rabbit warren almost any crime could be committed with impunity. A yellow crack showed under the door in the rear, and in answer to his knock, a gruff voice bade him enter. A couple of toughs lolled in a small kitchen where, at a table, a slatternly woman was sobbing with her head in her hands.

One of the men nodded toward the adjoining room. On a rumpled bed lay a figure, the head swathed in bloody bandages. The man's eyes were already glazed, and as much of his face as could be seen was bathed in sweat. Mr. Tutt knew that he was in the presence of death.

"Did you send for me?"

The eyes tried to focus on him. "Are you Gavin's mouthpiece?" came from the bed in a whisper.

"I am assigned to defend him."

"Then listen, counselor. My name's Capper—Jake Capper. I'm one of the Cotillo mob. I'm handin' in my checks. I want to square myself. I don't want no guy to get the hot squat for what I done. I shot Joe the Barber."

He stopped, panting.

"This Gavin had nuthin' to do with it. He's just a sucker. Cotillo shortchanged me, and that night I went to his office to talk him out of it. He poked his gun at me, and I grabbed it and shot him. Then I beat it out through the main entrance. Gavin must have come in the other way. The cops got the wrong guy."

"What did you do with the gun?"

"The elevator was upstairs when I ran out front, and I chucked it over the top of the grille into the shaft."

"Will you swear to all this?"

"Sure!"

"Then try not to die before I can write it out," prayed the old man. Taking out his notebook, he copied the statement in pencil, read it over to Capper, administered the oath, and assisted him to sign his name.

"You can die now with a clear conscience," he said. "This will save the life of an innocent man."

But would it? Once again in his library, he began to wonder. If the revolver was not where Capper said it was, his confession would fail of corroboration. Although it was nearly midnight, he telephoned for another taxi and drove to the Cotillo apartment house. The Negro elevator boy was just going off duty for the night, but, at the sight of the bill in Mr. Tutt's hand, readily agreed to take him to the cellar.

There, in the bottom of the elevator pit, almost submerged in a black, oily mass of debris, protruded the muzzle of the missing gun.

"I have interesting news for you, Mr. O'Brien," said Mr. Tutt as he laid the revolver on the assistant district attorney's desk next morning. "Here's what you have been looking for—People's Exhibit A."

O'Brien examined it suspiciously. He distrusted all Greeks bearing gifts.

"What's the big idea? Are you goin' to plead guilty?"

"On the contrary, my client has been completely exonerated. The true murderer has confessed." Triumphant, the old man recounted his experiences of the night before, while O'Brien read over the confession. "I assume that, of course, under the circumstances you will consent to the dismissal of the indictment."

"Then you've got another guess coming!" retorted O'Brien, who, although bothered, had no idea of being cheated out of a *cause célèbre*. "How do you know who the guy you saw was? The whole thing may have been a plant."

Mr. Tutt was staggered by his callous attitude. "But the statement is absolutely corroborated by my finding the weapon where he said he had thrown it!"

"Gavin could have put it there himself, couldn't he? He could have run out into the lobby, chucked the gun into the shaft, gone back into the office and made his getaway by the side door. Even if your story is true——"

Mr. Tutt's fist crunched the rim of his stovepipe hat. "Do you dare to question——"

"I've only got your word for it."

"Only my word! I am an officer of the court!"

"So is every attorney," sneered O'Brien. "Why, I've sent a dozen to Sing Sing myself! Anyhow, your testimony is pure hearsay. No court could admit it. That was settled long ago in *State versus Greenberg*, Eighty-five New York Seventy-five. This case is going to be tried according to the established rules of evidence. Excuse me, I'm busy."

Mr. Tutt realized, with a shock, that what O'Brien said was true. Capper's confession, being hearsay, was technically inadmissible as evidence and would undoubtedly be excluded upon the district attorney's objection. Yet that a prosecutor, aware that another had confessed to the crime, would allow an accused to go to trial without investigating and weighing the evidence would have been inconceivable had he not known O'Brien so well.

He walked back to his office with his blood boiling. What poppycock the law was. People acted on hearsay every day of their lives, and Capper's statement would have been received in any Continental court as a matter of course. Even in America there were exceptions to the doctrine—although this was not one of them. Here the rule vaguely was that hearsay could be allowed in certain instances when the surrounding circumstances were "such as to guarantee its trustworthiness." Thus the statement of the victim in a murder case, made in expectation of impending and almost immediate death, that the accused had been guilty of an attack upon him, might be testified to in court by a third party. On the other hand, the declaration of a dying man, made under precisely similar circumstances, that he himself was guilty and that the accused had nothing to do with it, could not be received. The law was utterly illogical and inconsistent. If Gavin had been charged with the murder of Capper, and Capper, believing himself about to die, had told Mr. Tutt that Gavin had shot him, he could so testify, but when Capper said that Gavin did not shoot Cotillo, for the excellent reason that Capper had done it himself, his testimony must be excluded.

The law was perfectly plain. And it gave O'Brien and Bunbury, that precious pair, a complete alibi. What could he do about it? After fifty years at the bar, he ought to be able to find some way out of his predicament. The pledge taken by an attorney, on his admission to the bar, that he will faithfully uphold the Constitution and the laws is as sacred to him as the Hippocratic oath is to the physician. Mr. Tutt had never consciously violated it—that is, hardly ever. At any rate, when skating on thin legal ice, he always comforted himself with the argument that if a law was unfair he was justified in doing his best to change it.

As he sat in his Twenty-third Street library smoking stogy after stogy on the evening before the trial, he was, frankly, less bothered over the ethical aspect of whatever course he might elect than by the probable result. Only a technical objection raised by a perverse and unscrupulous official prevented his telling what he knew. At a pinch, he could defy the court and blurt the whole thing out for the benefit of the jury, over O'Brien's objections. If he did so, Bunbury would undoubtedly sentence him to jail for contempt and charge Gavin straight into the electric chair. On the other hand, the jury might revolt and acquit on the strength of his testimony thus illegally given. But it would be dangerous. He would hold it in reserve only as a last resort.

He poured himself out a glass of Burgundy, lit another stogy and paced thoughtfully up and down before the sea-coal fire.

O'Brien, of course, was hopeless, but how about Bunbury? Except for being an old jelly-back, the judge seemed a pretty decent sort. He probably had a heart—and perhaps even a conscience, if you could reach it. Certainly what O'Brien proposed to do outraged all decency. Yet Bunbury would be coming up for renomination, and hence even more anxious than usual to keep solid with the machine.

But was Bunbury going to be renominated? If he wasn't he'd have nothing to be afraid of, and would be open to an appeal to his better nature.

Mr. Tutt stopped short in his perambulations and grabbed up the telephone.

"What's the low-down on Bunbury's renomination?" he asked Bonnie Doon.

"There's always some one around who'd like to have twenty-five thousand a year," answered his handy-man. "I heard a rumor—nothing more—that they don't think he's got enough guts and that it may go to young McBride, of the Twenty-third District."

"Know any of the judiciary committee?"

"Sure. Tom Sweeney, the chairman, is a particular friend of mine."

"Good!" cried the old man. "I want you to run down Sweeney tonight—even if you have to drag him out of bed—and find out exactly how Bunbury stands."

Then he clapped on his stovepipe hat, tucked a lawbook under his arm and took a taxi to the judge's house.

Mrs. Bunbury was upstairs putting the younger children to bed, and her husband, having put on his dressing gown and slippers, had just lit a cigar and settled down comfortably over a mystery story when the doorbell rang. Since it was not answered promptly and his library was only a few feet away, he went to the door himself.

"Good evening, Judge," said Mr. Tutt. "I hope you'll pardon this intrusion upon your privacy. I want to speak to you about that Cotillo case."

"Why, certainly; come right in," answered Bunbury, leading the way into his library. "Sit down. Have a cigar? You mean *People versus Gavin*? It's set for tomorrow morning, isn't it?"

"Exactly. I know this is a little unusual, but there seemed to be no other way out of it."

Bunbury took a noncommittal puff on his cigar. Mr. Tutt had never ventured to speak to him privately about any case, but plenty of other lawyers had done so, and the district attorney made a regular practice of it. Anyhow, he rather looked forward to a chin with the old boy.

"I have entire faith in your sense of propriety, Mr. Tutt. You are an officer of the court. Does your client wish to plead guilty to a lower degree of homicide?"

"Far from it! I have conclusive proof of his innocence."

Then with all the artistry at his command, Mr. Tutt told Bunbury the entire story.

"Have you explained this to the district attorney?" inquired His Honor.

"I went to him at once and gave him the revolver, but he refuses to allow me to testify as to Capper's confession, on the ground that it is hearsay."

The sudden tightening of Bunbury's lips encouraged him to go on.

"The trouble is that technically O'Brien's position is correct. But the law is hopelessly out of date, illogical and unjust. Imagine, if you can, judge, your own son on trial for murder, and the judge refusing to allow testimony that another person had confessed his guilt! In

fact, it's utterly preposterous! You were doubtless familiar with what Professor Wigmore says about it in the latest edition of his famous work on Evidence." He opened the volume which he had brought. "Section 1477 reads: 'It is therefore not too late to retrace our steps and to discard this barbarous doctrine of law, which would refuse to let an innocent accused vindicate himself even by producing to the tribunal a perfectly authenticated written confession made on the very gallows by the true culprit now beyond the reach of justice. Those who watched in 1899 with self-righteous indignation the course of proceedings in Captain Dreyfus' trial, should remember that, if that trial had occurred in our own courts, the spectacle would have been no less shameful if we, following our supposed precedents, had refused to admit what the French court never for a moment hesitated to admit—the authenticated confession of the escaped Major Esterhazy avowing himself the guilty author of the treason there charged.' "

Bunbury had allowed the cigar in his hand to go out. "Bless my soul!" he ejaculated. "I never imagined—What do you think I should do?"

Mr. Tutt got up and warmed his coattails before the fireplace.

"Judge Bunbury," he said earnestly, "you know, as well as I do, that what is law is not always justice. You can, if you see fit, and possibly without unfavorable criticism, rule out this evidence. If so, I shall not prophesy as to what my course will be. On the other hand, you can play the part of a courageous public officer by refusing to be bound by a hidebound technicality when a human life is at stake. As our great Chief Justice, John Marshall, said, in *Hoffman versus Porter*, 'I do not think that law ought to be separated from justice, where it is at most doubtful.' Here it is more than doubtful. This is an opportunity to show yourself a great and independent judge—one that perhaps will send your name echoing down the ages. It is not only the just but the right thing for you to do, and a thing which your conscience must approve."

All that was best in Judge Bunbury responded to the old man's appeal. Of course Mr. Tutt was right; the law was absurd; O'Brien was a filthy crook; and what a chance to get even with him for what he had endured at his hands all these years. He'd do it!

He was on the point of saying so when he heard his wife coming down the stairs. He hesitated. What would be the effect on her and on the children, if he acted as his heart and sense of justice dictated? It would undoubtedly cost him his renomination. He would lose his twenty-five thousand a year, his comfortable home. The boys would have to leave college and hunt for jobs. He'd be lucky to get anything to do himself. He could imagine people pointing him out and saying, "That's old Bunbury. He used to be a judge of the General Sessions, but he's never amounted to anything since." Mr. Tutt had read it all in his face.

Mrs. Bunbury entered, a pretty, faded woman, and her husband stood up ceremoniously to greet her. How well he remembered when they were so hard up that, besides taking care of the babies, she had done all the housework. Could he ask her to go back to that?

"Come in, my dear," he said gallantly. "I want you to meet Mr. Tutt. . . . Oh, no! You're not interrupting. We've just been having a little chat on legal matters. Nothing important."

"Is anything the matter, Rufus?" asked his wife anxiously in the early hours as she listened to the tossing and groaning on the adjacent bed.

"No, darling, nothing! I just can't seem to get to sleep," the judge had answered while his conscience and his self-interest struggled in a death grip. "I'll pop off all right now, I guess."

But he didn't pop off and it wasn't all right. The only right thing was to do what Mr. Tutt urged, but if he did, he could kiss his judgeship good-by. Otherwise, of course he'd be renominated and re-elected. They never would have brought the Cotillo case into his court and given him such a build-up in the papers, unless they intended to run him again. He was sworn to uphold the law, and the law was *State versus Greenberg*, Eighty-five New York Seventy-five! If he let in Capper's confession he'd be violating his oath, wouldn't he? No! That was a quibble, and he knew it. It wasn't a question of what he let in or kept out. It was whether he should insist that the district attorney do the decent thing.

Worn to a frazzle, he went to his chambers to find the assistant district attorney already there.

O'Brien greeted him, "Everything's all set. There's only one little thing. Old Tutt may try to run in a third-party confession and, of course, you'll have to keep it out."

Bunbury's hand trembled as he reached for a glass of water. "Don't you think that perhaps you're making a mistake?" he asked uneasily.

O'Brien thought he recognized the symptoms. The old fuddy-duddy was losing his nerve.

"If there's any mistake, it won't be on my part!" he said icily, and Bunbury knew exactly what he meant.

"Order in the court! His Honor, the Judge of the General Sessions. All rise."

The Honorable Rufus, a dignified figure in his robes of black silk, after hesitating for an instant to secure the proper effect, swept in, ascended the bench, bowed and sat down. He had never seen his court so jammed with reporters and cameramen. A few privileged spectators were even ensconced on the steps of the dais. It was a field day. The high spot of his career. He felt his old thrill at being a judge. He couldn't give it up. Every one had to compromise a little. Not that he was compromising; he was just following the law.

"People *versus* Gavin. Both sides ready. Proceed."

It took O'Brien only a little more than an hour to put in his case.

"I will now call my last witness—Ephraim Tutt," he announced, for the old man was needed to identify the revolver.

Jury and spectators alike leaned forward as Mr. Tutt walked to the chair and took the oath.

"You do solemnly swear that in the case of the People *versus* Gavin you will tell the truth, the whole truth, and nothing but the truth, so help you God?" intoned the clerk.

"I do!"

O'Brien handed him the gun. "Where did you find this revolver?"

"In the elevator shaft adjoining Cotillo's flat."

"That is all," said O'Brien. "No more questions."

Mr. Tutt did not budge. "There will be more questions," he said, "and I shall put them."

O'Brien gave Bunbury the alert. Now was the time to crack down on the old bozo. Mr. Tutt took Capper's confession from his pocket.

"What led you to look in the elevator shaft?" he asked himself.

"I object!" interrupted O'Brien. "It is irrelevant, incompetent and immaterial why he looked there."

"I have just taken an oath to tell the whole truth," said the old lawyer. "Is it possible that the law will stultify itself by refusing to let me do so?" He fixed his eyes appealingly on the judge. Would he do the right thing? Probably not.

Bunbury looked away. He'd rather have old Tutt's good opinion than any one else's he knew. It did seem damnably unfair to exclude the solemn confession of another than the defendant that he alone was guilty. He wanted—oh, he so wanted to do the courageous thing! But, how could he give up twenty-five thousand dollars a year when the law was actually on his side? Think of all the good he could do in fourteen more years. He'd jolly well show them where they got off then. He wavered, teetering like a walker on a tightrope. What should he do?

O'Brien sensed something wrong. Could the blundering ass be going sour? He stepped sideways toward the bench.

"Sustain my objection," he muttered out of the corner of his mouth. "Shut out every bit of that stuff."

It was almost the last straw. The blood surged up over the judge's dome and through his hair. For the fraction of a second, Bunbury was on the point of telling O'Brien to go straight to hell where he belonged. But he managed to control himself. Anyhow, he could at least assert his dignity as judge.

"Mr. District Attorney—" he began severely, then noticed his attendant standing with a telegram in his hand. "Excuse me a moment," he said, grateful for even a slight respite. He slit the envelope and unfolded the sheet within.

HON. RUFUS BUNBURY

CRIMINAL COURTS BUILDING

CONFIDENTIAL STOP THE COMMITTEE IN CHARGE OF JUDICIAL
NOMINATIONS AT ITS MEETING LAST NIGHT UNANIMOUSLY SELECTED

HUGH T MCBRIDE AS THE ORGANIZATION CANDIDATE FOR THE VACANCY ON THE GENERAL SESSIONS BENCH TO BE CREATED BY THE END OF YOUR TERM STOP THERE WAS A FULL ATTENDANCE STOP MCBRIDE WAS SPONSORED BY PETER HARRIGAN LEADER OF THE TWENTY-THIRD DISTRICT STOP THE COMMITTEE AGREED TO MAKE NO ANNOUNCEMENT UNTIL THE ENTIRE SLATE HAD BEEN MADE UP STOP THE ABOVE CAN BE EASILY VERIFIED BY INQUIRING OF HON T J SWEENEY ASSISTANT DISTRICT ATTORNEY O'BRIEN OR ANY MEMBER OF THE COMMITTEE

A FRIEND

Judge Bunbury felt as if he had been dealt a heavy blow in the stomach. He knew only too well that it was true. They had passed him over. O'Brien had deliberately brought the Cotillo case before him, knowing what they were going to do. Well, O'Brien could do nothing to him now. He was his own master—free at last. What was the famous saying? "All is lost save honor." The ghastliness of his disappointment gave place to a strange sense akin to ecstasy as he thrust the telegram in his pocket and turned benignly toward the witness chair.

"What is it you wish to prove, Mr. Tutt?"

O'Brien leaped forward, his hand raised in protest. "Don't answer that question!" he shouted.

"Take your seat, Mr. District Attorney!" rapped Bunbury. "I am the sole judge of what is proper here. . . . What do you wish to prove?"

"That the defendant is innocent and that another person is guilty by his own confession. I took this man's dying declaration myself and reduced it to affidavit form. That is how I knew where to look for the revolver. I offer the statement in evidence."

"I object to it on the ground that it is pure hearsay, and absolutely inadmissible under State *versus* Greenberg!" barked O'Brien.

Bunbury had no suspicion that revenge could be so sweet. "I will hear Mr. Tutt's testimony. If, in my opinion, it proves incompetent, I will order it stricken out," he said.

So Mr. Tutt detailed the entire story of how he had been called to the bedside of the dying Capper, received his confession and discovered the revolver.

"In conclusion, I wish to add that I at once took the gun to Mr. O'Brien and told him exactly what I have just testified to."

"Is that true, Mr. O'Brien?" frowned Bunbury.

"In general. I told him that his story could not be received in evidence."

His Honor eyed him contemptuously. "Gentlemen of the jury," he said, "the fundamental purpose of our legal system is to do justice. When technicalities defeat that end, they should be disregarded. It is true that under the antique decision cited by the district attorney, I could lawfully exclude Mr. Tutt's testimony; but when, as here, a man's life is at stake, I should be less than human if, simply out of common fairness, I did not allow you to consider it. When a judge is faced with a rule of law that seems to be unjust and unreasonable, he ought to be man enough to say so. I do not care what higher courts may say or what the effect may be upon my future career, but I shall admit the declaration in evidence, in the hope that hereafter the legislature will make such testimony technically admissible."

He bowed to Mr. Tutt.

"You may step down, sir. . . . I shall not take the case from the jury," he added, "since I do not care to usurp their functions. I wish, however, to state publicly that even if courts may feel themselves bound to consider only such evidence as conforms to the strict rules, there is no such obligation on the part of the district attorney. He is an investigating as well as a prosecuting officer, and it is his duty to weigh everything that may have the slightest bearing on the defendant's innocence or guilt. I am surprised and shocked that he did not see fit to do so in this case. . . . Are both sides willing to submit?"

O'Brien had turned as white as his jaundiced cheeks would permit. He could have murdered Bunbury then and there.

"I object to the court's outrageous reflections upon the conduct of the district attorney as well as His Honor's refusal to obey the law which he is sworn to uphold. After such an exhibition, I wash my hands of the case." He grabbed up his papers and stalked out.

The foreman looked inquiringly along the rows of jurors. "I don't think we need to retire, Your Honor. Our minds seem to be pretty well made up."

"The defendant will rise. . . . Gentlemen of the jury, do you find the defendant guilty or not guilty?"

"Not guilty!" answered the foreman.

There was a stampede of cameramen and reporters toward the rail as Mrs. Gavin threw herself into her husband's arms.

"Hold it!" "Once more, please!"

The Honorable Rufus gathered his robes around him and retired to his chambers. No one, in that confusion, was paying any attention to him, but he felt like a new man. After all, it was really the high spot in his career.

That night Mr. Tutt received a summons to St. Louis which kept him there for several weeks. Meantime he wired Bonnie Doon to turn over to the Gavins the five-hundred-dollar fee allowed him by the State and to ship them west to start life over again.

The reply read:

GAVINS GRATEFUL FOR DOUGH STOP JUST IN CASE YOU HAVE MISSED
THE BIG HULLABALOO IN NEW YORK PAPERS OVER COTILLO CASE
YOU OUGHT TO KNOW THAT IT HAS BEEN ENTHUSIASTICALLY AC-
CLAIMED AS A TRIUMPH OF JUSTICE STOP O'BRIEN HAS LOST HIS
JOB AND BUNBURY IS SUCH A POPULAR HERO THAT THE BOYS HAVE
DUMPED MCBRIDE OVERBOARD AND ARE GOING TO RUN BUNBURY
AGAIN

A FRIEND

HARRY KLINGSBERG

DOOWINKLE, ATTORNEY

This charming story was written by a living American who has contributed many pieces of legal fiction to the Saturday Evening Post. *Doowinkle, Attorney* tells of a lawyer who, out of conscientious scruples concerning the guilt or innocence of an accused, resigns as prosecuting counsel to become defense counsel.

IT WAS A MINUTE past midnight. The dying old man in the hospital bed breathed brokenly. Bent over him in the hushed room were a staff doctor, a nurse, and Sergeant Ball, of the homicide squad. A police stenographer sat by the bed. For the past hour, during brief conscious spells, the doomed man had managed to speak; now they were waiting for Detective Kelsey, who had sped out to find the man whom James Dobey named as his attacker. They looked up as Kelsey strode in, his hand on a tall young man in his twenties. The officer brought him to the side of the bed. The young man stood frozen with horror.

Detective Kelsey said, "Here's Richard Hunt. Is this the man who stabbed you?"

James Dobey did not speak. His pain-ridden eyes rested on the young man.

From his other side Sergeant Ball repeated, "Is that the man who stabbed you?"

The old man gasped, "Yes, he stabbed me. . . . Dick, how could you? . . . You know I never meant . . . I never would . . ."

A low, shuddering sigh escaped him. His arms sank loosely. James Dobey was dead.

John Doowinkle, slight, bookish assistant district attorney, sat in his cubicle in the prosecutor's section. Like the bleak December day outside, he felt glum and discontented.

Eleven years. And still at this desk. Eleven long years of briefs, appeals, and paperwork for his colleagues. True, now and then he had gone in on small cases, and some had hit the headlines, but the

fact remained that after all these years he was still the office factotum; still the desk man. He was tired of it.

The subject had come up for discussion with his wife only last night. In the manner of wives, Martha had pressed him to go to his chief, Graham, and demand that he be made a trial assistant. But John could not bring himself to ask for a promotion.

He turned to his desk with another grievance against Graham. He was lining up the proof against Richard Hunt for the murder of James Dobey; the trial was listed before Judge Rowan only ten days hence. So far Graham had assigned no one to try it, but Doowinkle was positive it would not be himself. This, though Graham knew that it was always his ambition to try a murder case. As it happened it was a simple case; there was a dying declaration and it was open and shut. Still, it was a murder case.

John rose, crossed the room, and began a pretended opening address to a jury:

"Ten years ago, when Richard Hunt was fourteen, James Dobey took him into his home. He raised him and gave him a job in his plant. His reward was murder. We will show you that on the night of November ninth, at ten o'clock, Hunt went up to see the deceased in his library. He left at ten-thirty. Fifteen minutes later Sherman, the old Negro servant, smelling smoke, hastened in and found Dobey on the floor, stabbed near the heart. Burning logs had been dragged from the fireplace to set fire to the room. We will show you that Dobey, with the solemn sense of approaching death, named Hunt as his slayer, an accusation he repeated with his last breath to Hunt's face. . . . Er—good morning, Mr. Graham. Good morning."

"Good morning," smiled Graham. "Political speech?"

"Why, no. Just—ah—practicing something."

"I see. I notice the Hunt case on your desk. Like to go in on it?" He grinned at John's face. "It shouldn't give you any trouble. . . . Oh, a Miss Kane just phoned. Lives near Dobey's house. Said she had some special information about the case. Here's her number. I told her you'd call her. By the way, I heard part of your speech. Sounded all right."

John started to call Martha. No, he wanted to see her face when he told her. This might mean a promotion if he won the case. Maybe it was a test.

He plunged into the file again. *Corpus delicti* and cause of death, clear enough. Weapon, a daggerlike paper knife which had lain on a desk in the library. No fingerprints; the killer wore gloves. To check an outcry, he had clapped a hand over Dobey's mouth—a thread of cotton glove had caught in Dobey's teeth—and after the attack he threw the gloves into the fire; the next morning the police found a section of unburned glove in front of the fireplace, pulled out with the logs. Two associated facts revealed the motive. Hunt quit his job that day without cause. Dobey, during the last hour, had kept gasping that he had not really meant to disinherit him. Seemingly, Hunt's walkout angered Dobey; he threatened, without meaning it, to change his will, whereupon Hunt killed him.

John wondered about Hunt, the inner depravity which made him do such a thing. He had never denied his guilt; he refused to plead, and a plea of not guilty had been entered for him. And yet Dobey must have been fond of him. In his final moment he was loath to name him; according to the stenographer's notes he had to be asked twice before he did so.

The rest of the file was mostly corroboration. Photographs of the library. Statement by Sherman, the old Negro who occupied the third floor of the Dobey house. Hunt's parents, it appeared, had been Dobey's friends; they died in a crash, and Dobey, himself widowed and childless, had fathered him. Data about Dobey's business. He was president-owner of the Dobey Motor Works; at sixty-six he was semi-retired and the plant was run by two directors named Walter Sheffer and Paul Conger. There were two other directors: Charles and Robert Moyer, Dobey's younger half-brothers. Hunt's job had been drawing bids and contracts. By his will, after bequests to Sherman and others, Dobey left an estate worth three hundred thousand dollars equally among Hunt and the four directors, naming Charles Moyer his executor.

John's telephone rang. "Miss Kane? . . . I was about to call you. . . . Suppose we say twelve o'clock?" He hung up, wondering what her information was. She had sounded rather eager. He really

had enough evidence to go to trial tomorrow. About all he wanted was to view the murder room, the better to describe it to the jury.

He called Detective Kelsey. An hour later they were at the Dobey house. It was a solid old dwelling near the outskirts of the city, flanked by lawns. Tall trees stood back of the house. The library, on the second floor, had been sealed until the trial and Kelsey opened it with his key. Sherman, still a little dazed by the tragedy, hovered behind them.

John took in the room. Two windows, blinds down, faced the west. Dobey's body had been found in front of the southernmost window. The fireplace, a good-sized one, stood in the south wall. A heavy couch slanted diagonally from the right side of the fireplace into the room. Three or four dead logs and a heap of ashes lay scattered in the angle of the couch. The desk was against the east wall. Near it, a second door led to Dobey's bedroom.

Kelsey said, "Here's how I picture it. Dobey sat on the couch next to the fireplace——"

John remarked, "An odd arrangement for a couch. I noticed it in the photographs."

"Sherman says it used to face the fireplace, but Dobey changed it around last summer and always sat in that corner. . . . That's right, pop?"

Sherman nodded.

"And Hunt sat here. They have this quarrel. Dobey goes to the window and stands with his back to Hunt. Incidentally, he was a small man—weighed about a hundred and twenty. Hunt slips on the gloves, gets the knife, and comes up behind Dobey. He puts his left hand around him and over his mouth and holds him; with his right he reaches across and stabs him. Dobey fights a little; the knife misses the heart; Dobey sees the face above him. Hunt drops the knife. One glove is bloody from touching the blade and he pitches both gloves in the fire. Then he has another idea. Why not burn all signs of a murder? He grabs hold of that shovel and hauls out the logs. He throws away the shovel and beats it out by that door to the hall."

John studied the hearth. Hunt's attempt to set the room ablaze had failed miserably; he had pulled the logs only two or three feet, and

just the thick wool rug and the edge of the couch were charred. John wondered about the quantity of ashes. Seemingly he had stood to one side, blindly raking the hot contents of the fireplace out and away from him. Everything pointed to sudden panic and haste.

He said to Sherman, "You were in bed when you smelled the smoke?"

"Yes, sir. I beat out the logs and call the police." He shook his head. "I still can't believe young Dick do that. He love the old man—he really do."

"I understand he was out until a little before ten?"

"Yes sir. He phone about six not to wait dinner for him. When he come home I say, 'Mr. Jim keep askin' for you.' He don't answer. He act like somethin' on his mind."

"Afraid to face Dobey after deserting his job," said Kelsey. "When the old man named him I came here to question Sherman. Hunt walked in a minute later. Probably went walking to settle his nerves, came back and saw the house hadn't burned down, and decided to play innocent. I'll say this for him—when he saw Dobey in the hospital he put on the best stunned act I ever saw. Wouldn't talk, though. The next day I found the piece of glove. A cheap pair, no doubt bought for the purpose. He'd determined if Dobey raised hell with him, he'd kill him."

John nodded. It was a clear first-degree case and he meant to say so to the jury.

He found Miss Kane waiting in his office. Her dark, troubled eyes searched John. He had the thought that she was measuring him to put something over on him. She said rapidly. "I'm Ruth Kane. I suppose I should have gone to the police, but I decided to wait and speak to the prosecutor himself. You see, I saw it happen."

"Really? The actual murder?"

"Yes. You see, I live near the house, and that night I walked by and saw Mr. Dobey at the window. Then I saw a man come behind him and—and stab him. I recognized him. It was Richard Hunt. I saw it quite distinctly. That's good evidence, isn't it?"

"Perfect," agreed John. "Except that the blinds were down at the time and you couldn't possibly have seen it. I'm sorry."

He thought she was going to cry. He watched her go out. There were often these spotlight thirsters in murder cases. Too bad; it seemed even pretty girls could suffer from neuroses.

That night, after dinner, he told Martha about the case. Her manner disconcerted him—she was neither surprised nor enthusiastic. “Incidentally, a young girl tried to tell me she saw the murder.” He told her about Miss Kane. “A good thing I noticed the blinds.”

Martha said, “She was here. I told her to come back tonight.”

When Ruth arrived Martha said dryly, “I think you two have met. . . . Don’t be afraid of him. Tell him why you did it.”

Ruth burst out, “I wanted you to put me on the stand so I could ruin your case for you, and Dick would be acquitted. He didn’t do it. He’s innocent!”

John was silent. She said, calmer now, “He was going to his draft board the next day and ask to be inducted. He wanted to do it months ago, but Mr. Dobey wouldn’t let him. He was a lonely old man and, well, a little selfish, and Dick was all he had. He had Dick deferred twice because the plant did war work, and Dick hated that. Finally he decided if he quit they’d have to put him in the Army and Mr. Dobey would be proud. We spent the evening together and he went home to tell him. Then he came back. He was all upset. He said Uncle Jim—that’s what he called him—was very angry, even said he would disinherit him if he went. Dick knew he didn’t mean it, but even if he did—He didn’t kill him. He loved Mr. Dobey! Next day, in jail, he said I must never see him again or speak to the police—if I did he would plead guilty. I said I’d send him a lawyer. He refused. Finally he said all right, but he wouldn’t have anything to say to him. I couldn’t understand why he acted like that. Later I remembered——”

She hesitated. “I suppose you won’t believe me. About twenty minutes after Dick came back the phone rang. He was near it and answered it. He said, ‘Yes, it’s me.’ Then he said, ‘Shut up or she what? Who are you?’ He hung up and said, ‘Some nut thinks he’s funny.’” Ruth paused. “Don’t you see? That man ordered him to shut up with a threat to me. When Dick saw Mr. Dobey in the hospital he understood what he meant. That’s why he won’t defend himself. How do they know he’s guilty? Nobody saw him do it.”

"That's not so. Mr. Dobey saw him. Do you realize he named him?"

"Couldn't he be wrong? Couldn't he have thought it was Dick?"

"I don't see how. He said you could get him a lawyer. Why don't you?"

"I saw two lawyers. They said in the face of Mr. Dobey's statement the best they could hope for was a life sentence. Then I thought up my scheme. I see now how wild it was. After I left you I decided to speak to you again. I looked up where you lived. I'm not afraid of the threat. Even if Dick says he's guilty you mustn't believe him. You mustn't!"

When she had gone, John turned to Martha.

"And by what intuition did it dawn on you that her boy friend is innocent?"

She said, "Maybe I'm not so anxious to send somebody to the chair."

"But Martha, be reasonable. If Hunt didn't stab him, somebody did right after he left. Dobey would certainly have heard him go out of the room——"

"What's the matter?"

"I—I just got a different picture of the murder."

She smiled. "I hoped you would. I told her to come back tomorrow night."

In the morning John telephoned Detective Kelsey. "I'd like to ask you about Dobey's last statement. After you came back with Hunt, which side of his bed did you go to? . . . Was Sergeant Ball on the other side? . . . I see. Thank you."

He hung up. So Dobey could have been wrong, after all. Other signs led away from Hunt. Old Sherman still couldn't believe he did it. And his manner in the hospital. Maybe his stunned act was genuine. A man who stood ready to abandon his inheritance to join the armed service would hardly commit murder for it.

His silence wasn't so fantastic as it sounded. Shaken by Dobey's death, unnerved by his accusation, the threat had worked on his mind and all he could think of was Ruth's safety.

But if Hunt didn't kill Dobey, who did? John went through the file again. With the powerful case against Hunt, the questioning of the four inheriting directors had been only routine. Sheffer said that on the night of the murder he worked at the plant until ten and drove to his home in the suburbs, stopping at a diner for a sandwich. Charles Moyer saw a picture at the Strand, a neighborhood house. Robert Moyer was home alone. These two men were bachelors and lived together ten blocks from Dobey. Nor was Conger's alibi better. He said he was home with his wife, which might simply mean he could get her to swear to it.

John picked up the file and walked to Graham's office.

He began, "About this Hunt case. I'm not sure he's guilty. You see, I think Dobey was partly deaf. When Kelsey brought Hunt to the hospital he came to Dobey's right side and asked him to identify Hunt as the man who stabbed him. Dobey didn't answer."

"Maybe he hated to do it."

"But he'd already named him, and when Ball, who was on his other side, spoke to him, he answered at once. Also, he fixed his couch so that when he sat in his usual place his right—or bad side—would be away from the room."

"All right. Dobey was deaf in his right ear. So?"

"Well, when Dobey went to the window he turned his deaf side to the room. He may not have heard Hunt go out. The real killer would have come from the bedroom. In putting his hand over Dobey's mouth he may have covered his eyes and shut off his vision. Dobey, having just quarreled with Hunt, and thinking he was still in the room——"

"Nonsense. Dobey named him. He must have seen him."

"He didn't say so," argued John. "Dying declarations can be wrong. They're not sacred."

"They still beat theory. How did the killer get in?"

"Well, I noticed the house has a rear entrance and back stairs. If you look at this photograph, there's a set of keys on Dobey's desk. People keep keys in pockets or drawers. The murderer may have stolen them on a visit to Dobey and dropped them on the desk before grabbing

the knife. Dobey probably didn't go out much and wouldn't have missed them."

Graham snorted, "He could have this—he may have that. I never heard so much guesswork. If Hunt didn't do it, why doesn't he say so?"

He listened impatiently. "Protecting his girl, eh? Haven't heard that one for years. Quitting to get drafted is a good touch too. Anything else?"

"Well, I was thinking of the fireplace. If the idea was to burn down the house, why weren't the logs pushed farther into the room? Why wasn't something set on fire? Why all the ashes? You can't start a fire with those."

"He bungled the job. Well, now you've acquitted Hunt. Got anybody to convict?"

John reddened. "Each of those directors had a motive for killing Dobey. They all inherited sixty thousand dollars from him, and if Hunt is convicted they'll divide his share. If you examine their alibis, any of them might have done it."

"Except that Dobey didn't name them. I'm sorry, John. I'm not convinced at all. But if that's the way you feel you'd better leave the case with me. I'll try it myself."

That night John told Ruth what happened. "You must get Dick a lawyer at once."

Martha said, "She spoke to two lawyers. You heard what they said."

"There are other lawyers. . . . Now, Martha, don't look at me like that. You know I never handled a case like this. Besides, I'd have to resign——"

"Is that what worries you? Don't you think you'll get along? I want you to resign. It would show Graham. Who'll defend that boy if you don't?"

Ruth stood in front of him. "Won't you do it? Won't you?"

"He's stubborn," said Martha. "Give him time."

An hour later, when Ruth had left, John sat grimly. He had agreed to resign to defend a man he never met; a man who wouldn't cooperate. And against Graham himself. He had just eight days to do it. He certainly hadn't foreseen anything like this yesterday.

"Well," he told himself, "I wanted to try a murder case!"

Graham said gravely, "It's perfectly all right, John. See you in court."

John took the bus to the county prison. His first thrill of fighting for a man's life faded as he sized up the odds against him. Denial and oratory would never win this case. He would have to find the real murderer and produce him to the jury.

The prisoner was brought in. John introduced himself, explaining that Ruth had sent him. Hunt's eyes flickered faintly.

"I've nothing to say, now or on the stand. If you put me on I'll say I did it."

"I understand. Will you tell me this? Was Mr. Dobey partly deaf?"

"I don't know. Lately he acted like it. Why?"

"Haven't you ever wondered why he accused you?" He explained, watching the relief in the other's eyes. He had evidently been torn by the thought that Dobey named him deliberately. "One more thing. That phone call. Was the voice disguised? What did he say?"

"Oh. Did she remember that? He said, 'Shut up or she goes too.' Maybe it was disguised. I know one thing. It wasn't Paul Conger—" He jumped up. "I said enough!"

"Dick," John spoke soothingly, "you can say anything you want. Can't you see his threat was just a bluff? Harming Ruth wouldn't do him any good."

"No? If I talk she'll have to take the stand, won't she? He'd want to stop that, wouldn't he? Besides, you can't help me. Nobody can. Uncle Jim said it was me. What jury would take my word against that?"

"I thought it wiser not to argue with him," John told Martha. "He must know Conger well enough to feel he'd have recognized his voice. It shows he suspects the directors."

Martha said, "And so do you."

"Who else would know his way in the house? Or where to phone Dick? Whichever one it was, he must have been greedy for money or he'd have waited until Dobey died. And since the estate can't be settled for months, you'll find he's already pledged or sold his legacy."

He went on. "Coming back to the murder, it gives every appearance of being timed to throw suspicion on Dick. Yet he couldn't have foreseen that Dick would be with Dobey. I think he meant to kill Dobey in his bedroom, maybe by strangling him, but seized the opportunity to pin it on Dick. It would put another fifteen thousand dollars in his pocket. But I can't understand why he took the chance to phone Dick. He'd left Dobey for dead. Dick would be blamed. Everything was fine. As a director his voice couldn't have been unknown to Dick. True, Dick didn't recognize it, but he might have. Why did he take the risk?"

"Maybe everything wasn't so fine."

John nodded. "That could be it. Maybe he made a damaging slip and he was afraid the police would discover it. Risk or no risk, if he could silence Dick the case would end with him. Something else keeps bothering me. What happened at the fireplace? They say it was a bungled attempt to burn down the house. But would even a bungler keep raking ashes after the logs, especially when he was in a hurry? That has a meaning of its own. The only other answer is that he was searching for something. But what? I can't figure it out."

The next day John hired a detective agency and began a probe of the directors. The business, he found, had incorporated rather recently—June, 1940. Sheffer, now president, had been with Dobey thirty years. Conger, in charge of production, had been with him nineteen years. The two Moyers were in their early fifties. They were not active in the company, coming only to board meetings. Charles, the older, had a tire business up to early 1940; Robert worked for him. Ruth added her own impressions; she met them all at a party in the plant. Sheffer was abrupt, Conger retiring. Of the two Moyers she recalled Charles best, an affable man. Robert struck her as surly. Conger and Dick, she told John, worked together a lot in the plant. It all didn't add up to much.

John was pleased at the change in Ruth. Just helping with the case made her more cheerful. Thinking of her safety, John urged her

to hire a bodyguard. She flatly refused. Martha had a suggestion: she move in with them until the trial.

One night they all went to the Dobey house. To the surprised Sherman, John explained his new stature in the case. "Was Mr. Dobey hard of hearing?"

Sherman said thoughtfully, "Could be he was. Could be."

They stood in Dobey's bedroom. *Here*, John thought, *the killer waited for his victim; here he escaped later*. The room opened to the center hall. They went down the rear stairs to the lawn behind the house. It sloped to a narrow dark street. He always, Sherman said, locked the back door at night. Three people had keys: himself, Dick, and Dobey.

"But Mr. Jim never use them. I say to the police. 'This is funny. He always keep these keys inside the desk. Now they on top.' They think he put them there."

John nodded. That much of his guesswork was right. "Who visited him?"

"Mostly Mr. Sheffer to talk business with him, on account Mr. Jim stop going to the plant. His brothers come once a week, except the time lately when Mr. Charles have the flu." His voice faltered. "A paper come today. Do I have to go on that stand against that boy? I never believe he do it." John saw tears spring to Ruth's eyes.

"It wasn't Conger," said John on their way home. "He didn't visit Dobey, and Dick was sure it wasn't his voice. We'll find out who it was."

But as the trial neared, his confidence fell. He looked up gloomily one evening from the reports of the detective agency. "There's nothing to single out any of them, no signs of sudden wealth or special use of money lately. I saw Charles Moyer today and asked him to show me his records as executor of the estate. He said he had no right to do that without a court order. But even if one of them did cash his legacy, how will I prove that he killed Dobey?"

He paced the room. "I've nothing to seize on. I still can't grasp everything that happened in that library. Why did he search the fire-

place? Look. He stabs Dobey. He throws them in the fire—" John stood.

"Well!" he exclaimed. "It took me long enough!"

District Attorney Graham dismissed his last witness. "Commonwealth rests."

The courtroom stirred slightly. The reporters looked bored. Yesterday, when the trial opened, they had headlined that counsel for the accused would be a former prosecutor, who had resigned to defend him, but he had simply sat for two days and let the proof pile over his client. They watched Doowinkle as he rose. Did he have anything?

John glanced at Dick Hunt. He had come in with his head up, even smiling at Ruth in a front row with Martha, and he had shown life when two directors took the stand against him: Sheffer that he quit his job, Charles Moyer to explain Dobey's will. Both times he had stiffened angrily. But Dobey's last statement, used by Graham as his final gun, had plunged him into blackness again.

"Members of the jury, dying declarations, like all human actions, are subject to error. This defendant did not murder James Dobey. Before this trial is over, I hope to show you the man who did."

Graham objected, "Why not now? Why prolong the case?"

Judge Rowan said briefly, "We will rule on the testimony as it is offered. Proceed."

John called, "Daniel Sherman."

The old Negro walked slowly to the stand.

"Mr. Sherman, you told us you have known the defendant for ten years. During that time how did he behave to the deceased?"

"Always kind and affectionate. I never believe that boy lift a finger to him."

"Objection! I move that be stricken out."

"Strike it out. . . . No opinions, please. Simply answer the questions."

John examined the witness, expanding on his previous testimony for the Commonwealth. He and Dobey were alone in the house that night, Sherman said; the cook always left at eight. Dobey usually

went to bed at eleven. Over Graham's objection, he described the house: the rear entrance and back stairs. John brought out the changed position of Dobey's keys.

"Now, Mr. Sherman, was there much of a blaze when you entered the library?"

"No, sir. The logs almost die out. More smoke than flame in that room."

"What time did you make the fire that night?"

"About eight o'clock. A little before ten Mr. Jim ask me to build it up again, on account he wait for Dick. I make a good roaring fire—he like it that way."

"And when was the last time you cleaned the fireplace?"

Judge Rowan asked doubtfully, "Is that material?"

"Very. . . . Do you remember?"

"Let me see. This was Monday night. . . . I clean out that fireplace on Saturday."

Between then and the murder, Sherman went on to testify, nobody visited Dobey; and since then the room had been locked to all but the police. John said, "Cross-examine."

"No questions."

"I call Walter Sheffer." The new company head strode to the box. Spectators, remembering John's opening statement, watched intently.

"You telephoned Dobey the night he died and told him that Dick had left his job?"

"It wasn't why I called. He happened to mention that Dick hadn't come home. I said, 'He's probably thinking up a story. He quit and gave me no reason.' "

"Perhaps he felt he owed his first explanation to Mr. Dobey?"

"Perhaps. He made none to me."

Had Dobey, John asked, ever complained to him about Dick? . . . He had not, Sheffer said. Actually they treated each other with affection? . . . It seemed so. What was Dick's manner at the plant? . . . Quiet; not quarrelsome.

Over repeated objections, John drew some facts about the business. Why had Dobey incorporated it? He felt old, Sheffer said, and wanted to make sure it would go on. And, John suggested, to provide for his brothers? That might have been part of it. The Moyers were paid just for coming to the meetings? Yes; fifty dollars each, weekly.

"Did you and the other directors know you would inherit equally from Dobey?"

"We did. He told us so."

"That's all. Cross-examine."

Graham said dryly, "Apparently this wasn't the culprit. No questions."

"I call Robert Moyer."

Curious eyes followed the younger half-brother to the stand. John studied him as he took the oath. Ruth had judged him correctly: he was jowly and sullen. The witness, openly perturbed, said he was fifty-one, two years younger than Charles. They visited Dobey on Thursday night before he died and listened to a round-table program in the living room.

"Did either you or Charles go up stairs alone during the evening?"

"Do you expect me to remember that? Maybe we did."

"Did you know Dobey kept a set of keys in his desk?"

The witness bristled up. "I went there to see him, not to spy in his desk."

"By the way, I understand Charles had an attack of flu recently?"

"It was the beginning of October. He was in bed a couple of weeks."

"I will now ask what you did the night of the murder. . . . Why are you nervous?"

"I'm not nervous. I listened to the radio. After the eleven-o'clock news I went up to bed. A few minutes later I heard Charles come in."

John looked at him a moment. "That's all. Cross-examine."

"No questions." Graham remarked, "The great disclosure has yet to come."

John wheeled, "I call Charles Moyer."

Something in his tone sent a current through the court. Even Dick felt it. He sat up and stared at John. Charles Moyer, amid whispers, moved to the stand. He was taller than Robert; quick-eyed, assured. He smiled genially as he sat down. The court waited.

“Mr. Moyer, do you wish me to inform you of your constitutional rights?”

Moyer’s eyes tightened a little. “You needn’t bother. I know them.”

“Then I will ask you: Did you kill James Dobey?”

“I will answer you. I did not.”

John addressed the bench. “Your Honor, I plead surprise at his answer and ask leave to cross-examine him.”

The courtroom stilled. The witness’ smile gradually froze.

Graham shot up. “I object! This man was my witness and I am responsible for his integrity. Is he charging him with the crime? If so, let’s have the proof.”

Judge Rowan turned to John. “You expected him to say he killed him?”

“I did. Since he chose to speak, I assumed he had decided to confess. As he has not done so, I do not wish to be bound by his testimony. I renew my request.”

“I oppose it! It is a common device in capital cases to throw dust in the eyes of the jury by reckless charges against innocent people. It is for Your Honor’s discretion.”

The jurist said slowly, “My discretion is more fancied than real. He was asked if he committed the crime. His denial being adverse to the accused, he becomes, by close definition, a hostile witness. I am obliged to grant the request.”

John stepped toward the stand. “Mr. Moyer, what did you do the night of the murder?”

“The police know what I did. I saw a picture at the Strand. And I can prove it. It was a detective mystery called *The Red Shadow*. A café owner named Lawton was killed.” He described the story in detail. “Are you satisfied?”

"Why didn't you volunteer the plot to the police? Because you didn't know it then?"

"Not at all. They didn't ask for it."

"And you realized if they had asked for it you'd have been sunk, so you repaired your alibi by seeing the picture later in another theater?"

"I tell you I saw it that night. The owner will vouch that I went in. I spoke to him."

"Will he vouch that you remained until the end of the show?"

"How can he? He didn't sit with me and I assume he didn't watch me."

"I spoke to him also and they let out that night at eleven. According to Robert, you got home about eleven-twenty. Did it take you twenty minutes to walk five blocks?"

"Well, I stopped in the drugstore for a soda."

"But you told the police you came straight home from the theater. Why do you introduce the drugstore now—to account for those twenty minutes? By the way, are you fond of detective pictures—is that where you picked up the expression, 'Shut up or she goes next'?"

The witness eyed him. "I don't know what you're talking about."

"Mr. Moyer, I suggest that you did stop in a drugstore to phone this defendant——"

"I deny that. I told you what I did."

"And delayed your return home until Robert went to bed because you had just committed a murder and your nerves might betray you. Is that true?"

"It's false! Absolutely false!"

John paused to look at him. His confident mask still held, but the strain of his secret had begun to crack it a little. His eyes darted hatred at John.

"Mr. Moyer, did you steal Dobey's keys on the Thursday night visit, or before?"

"I never stole them. I didn't know where he kept them."

"Let us see what you did know. Of course you knew the house—by using the rear entrance and stairs you could get to Dobey's bedroom?"

"No. I paid no attention to the house."

"And that he and Sherman went to bed early? And that the defendant usually went out in the evening, and where a telephone call would find him?"

"I did not. I hadn't the least interest in the defendant."

"Perhaps you feel Mr. Dobey shouldn't have made a ward of him? Speaking of Mr. Dobey, what was your attitude to him? Were you grateful to him for taking care of you?"

Moyer sneered, "Nobody has to take care of me. If you mean the directorship, that was just temporary."

"You have other plans for yourself? Why did you give up your tire business?"

"Because I foresaw the rubber shortage. I paid off my creditors and got out."

"You foresaw it in April, 1940, two years before it happened? Would it interest you to know that I spoke to Dobey's bankers and they told me he put up the money for your creditors because you were insolvent? And that he did this at least twice before?"

Moyer scowled. "What if he did? I happened to be unlucky."

"Meaning he was luckier in making his fortune and you hated him for it?"

Graham said, "Don't answer that. . . . Your Honor, I feel the time has come to intervene. He has hurled all sorts of charges at this man, but he has proved nothing except a trifling discrepancy in his statement to the police."

Judge Rowan nodded. "Mr. Doowinkle, have you any other questions aside from his actions on the night of the murder?"

"I have. He is the executor of Dobey's will. He did not employ counsel. He refused to let me see his records. I subpoenaed them and wish to know if they are here. I want to know if he raised money by pledging his legacy."

"Objection! Incompetent and irrelevant."

"If Your Honor please, my purpose is to indicate a motive for the murder."

"I understand your purpose. Suppose he did borrow on his legacy? Many people do so without having murdered the testator. Your status here is to defend the accused. I will not allow you to do so by unsupported innuendo against others. You may have an exception."

A slow hush settled over the court. The reporters watched John. On the stand the witness smiled easily again.

"Mr. Moyer, what did you wear that night?"

"Do you want an inventory? Hat, suit, shoes——"

"I am interested in gloves—cotton gloves which would leave no prints on doors or furniture and could easily be destroyed. Did you wear those?"

"No. I wore no gloves."

John stood before him. "I notice a sapphire ring on your left hand in a gold setting. May I see it? Take it off, please. . . . Did you wear this?"

The witness jolted with sudden fright. He gripped his chair.

"Please answer my question. Did you wear this ring?"

"Yes. I've worn it for years." He was white.

John said slowly, "Here is your ring. . . . Mr. Moyer, my guess is that you left the theater a little after ten. You walked to the Dobey house, a matter of seven or eight minutes, and stood behind the house until lights on the third floor indicated that Sherman was in his room. You let yourself in with keys stolen from the deceased——"

"No! It's a lie!" He jumped tremblingly to his feet.

"You waited, murder in your heart, in Dobey's bedroom. You overheard his scene with Dick Hunt. You conceived the idea of branding Dick with the crime. Dick left and you went in." John pointed to the exhibit table. "You seized that knife. You stabbed Dobey. You dropped the knife. One glove was bloody and you threw both gloves in the fire——"

"More lies! Your Honor, I appeal for protection!"

Judge Rowan spoke to John. "I cannot stop you from pursuing this line. I will simply point out your responsibility as an officer of the court. You wish to proceed?"

"I do, sir. . . . You threw them in the fire, but your recent illness had made you lose weight and your ring came off in the glove and went into the flame. You pulled the fire apart in a desperate attempt to recover your ring. You failed. The room filled with smoke. You feared Sherman would enter, and escaped the way you came. Is that true?"

"All lies! You will answer for this!"

John said quietly, "There is a way to find out. . . . Your Honor, I ask an adjournment to permit the district attorney to have the fire-place searched."

"I protest! You'll find nothing!" Charles Moyer reeled slowly. John turned from him. "You'll be home tonight, Dick."

"John, you saved that boy and I bow to you." Graham eyed the blackened ring in his hand. The gold band had melted to a nugget, but the stone was intact. "I see how you guessed about the ring. He was obviously looking for something he missed after throwing in his gloves, and about the only thing that could have gone in with them was his ring. Of course he bought another like it to avoid questions. What made you go after Charles? Because he'd been sick and you figured he lost weight?"

John nodded. "Things began to point to him. He was the only director who wore a ring. He was plainly covering up something about the estate. What worried me was whether he found the ring. I felt he hadn't or he wouldn't have phoned Dick, and when I saw the one he had on I was sure of it. It didn't look as if he'd worn it for years."

Sergeant Ball walked in. "We found these papers in his room."

"Let's have them. . . . You were right. He pawned his legacy with loan sharks for thirty thousand dollars. . . . H'm. Been trying to get rich quick out of the war. Started a bootleg tire ring. That's why he wanted money in a hurry. That's all, sergeant. . . . John, you can come back as trial assistant if you want to. Do you want to?"

“Well, I’d like to think it over—discuss it at home——”

“You mean you had a taste of independence and liked it. Well, I’ll help you by withdrawing the offer. I’m thinking of those two kids when they realized he was free. The lawyer’s true place is in front of the railing, guarding the weak and correcting the prosecutor’s mistakes.” He grinned. “John Doowinkle, attorney-at-law. See you in court!”

SIR ALAN HERBERT

**BOARD OF INLAND REVENUE v.
HADDOCK: THE NEGOTIABLE
COW**

In this laughter-provoking story, the author's rich imagination poses—and answers—the question whether a valid negotiable instrument may be written on the hide of a living cow.

‘**W**AS THE COW crossed?’

‘No, your worship, it was an open cow.’

These and similar passages provoked laughter at Bow Street to-day when the Negotiable Cow case was concluded.

Sir Joshua Hoot, K. C. (appearing for the Public Prosecutor): Sir Basil, these summonses, by leave of the Court, are being heard together, an unusual but convenient arrangement.

The defendant, Mr. Albert Haddock, has for many months, in spite of earnest endeavours on both sides, been unable to establish harmonious relations between himself and the Collector of Taxes. The Collector maintains that Mr. Haddock should make over a large part of his earnings to the Government. Mr. Haddock replies that the proportion demanded is excessive, in view of the inadequate services or consideration which he himself has received from that Government. After an exchange of endearing letters, telephone calls, and even cheques, the sum demanded was reduced to fifty-seven pounds; and about this sum the exchange of opinions continued.

On the 31st of May the Collector was diverted from his respectable labours by the apparition of a noisy crowd outside his windows. The crowd, Sir Basil, had been attracted by Mr. Haddock, who was leading a large white cow of malevolent aspect. On the back and sides of the cow were clearly stencilled in red ink the following words:

‘To the London and Literary Bank, Ltd.

‘Pay the Collector of Taxes, who is no gentleman, or Order, the sum of fifty-seven pounds (and may he rot!).

‘£57/0/0

‘ALBERT HADDOCK’

Mr. Haddock conducted the cow into the Collector's office, tendered it to the Collector in payment of income-tax and demanded a receipt.

Sir Basil String: Did the cow bear the statutory stamp?

Sir Joshua: Yes, a twopenny stamp was affixed to the dexter horn. The Collector declined to accept the cow, objecting that it would be difficult or even impossible to pay the cow into the bank. Mr. Haddock, throughout the interview, maintained the friendliest demeanour¹, and he now remarked that the Collector could endorse the cow to any third party to whom he owed money, adding that there must be many persons in that position. The Collector then endeavoured to endorse the cheque—

Sir Basil String: Where?

Sir Joshua: On the back of the cheque, Sir Basil, that is to say, on the abdomen of the cow. The cow, however, appeared to resent endorsement and adopted a menacing posture. The Collector, abandoning the attempt, declined finally to take the cheque. Mr. Haddock led the cow away and was arrested in Trafalgar Square for causing an obstruction. He has also been summoned by the Board of Inland Revenue for nonpayment of income-tax.

Mr. Haddock, in the witness-box, said that he had tendered a cheque in payment of income-tax, and if the Commissioners did not like his cheque they could do the other thing. A cheque was only an order to a bank to pay money to the person in possession of the cheque or a person named on the cheque. There was nothing in statute or customary law to say that that order must be written on a piece of paper of specified dimensions. A cheque, it was well known, could be written on a piece of notepaper. He himself had drawn cheques on the backs of menus, on napkins, on handkerchiefs, on the labels of wine-bottles; all these cheques had been duly honoured by his bank and passed through the Bankers' Clearing House. He could see no distinction in law between a check written on a napkin and a cheque written on a cow. The essence of each document was a written order to pay money, made in the customary form and in accordance with statutory requirements as to stamps, etc. A cheque was admittedly not legal tender in the sense that it could not lawfully be refused; but it was accepted by custom as

¹ *'Mars est celare martem.'* (Selden, *Mare Clausum*, lib. I, c. 21)

a legitimate form of payment. There were funds in his bank sufficient to meet the cow; the Commissioners might not like the cow, but, the cow having been tendered, they were estopped from charging him with failure to pay. (Mr. Haddock here cited *Spowers v. The Strand Magazine*, *Lucas v. Finck*, and *Wadsworth v. The Metropolitan Water Board*.)

As to the action of the police, Mr. Haddock said it was a nice thing if in the heart of the commercial capital of the world a man could not convey a negotiable instrument down the street without being arrested. He had instituted proceedings against Constable Boot for false imprisonment.

Cross-examined as to motive, witness said that he had no cheque-forms available and, being anxious to meet his obligations promptly, had made use of the only material to hand. Later he admitted that there might have been present in his mind a desire to make the Collector of Taxes ridiculous. But why not? There was no law against deriding the income-tax¹.

Sir Basil String (after the hearing of further evidence): This case has at least brought to the notice of the Court a citizen who is unusual both in his clarity of mind and integrity of behaviour. No thinking man can regard those parts of the Finance Acts which govern the income-tax with anything but contempt. There may be something to be said—not much—for taking from those who have inherited wealth a certain proportion of that wealth for the service of the State and the benefit of the poor and needy; and those who by their own ability, brains, industry, and exertion have earned money may reasonably be invited to surrender a small portion of it towards the maintenance of those public services by which they benefit, to wit, the Police, the Navy, the Army, the public sewers, and so forth. But to compel such individuals to bestow a large part of their earnings upon other individuals, whether by way of pensions, unemployment grants, or education allowances, is manifestly barbarous and indefensible. Yet this is the law. The original and only official basis of taxation was that individual citizens, in return for their money, received collectively some services from the State, the defence of their property and persons, the care of their health or the education of their children. All that has now gone.

¹ Cf. Magna Carta: '*Jus ridendi nulli negabimus.*'

Citizen A, who has earned money, is commanded simply to give it to Citizens B, C, and D, who have not, and by force of habit this has come to be regarded as a normal and proper proceeding, whatever the comparative industry or merits of Citizens A, B, C, and D. To be alive has become a virtue, and the mere capacity to inflate the lungs entitles Citizen B to a substantial share in the laborious earnings of Citizen A. The defendant, Mr. Haddock, repels and resents this doctrine, but, since it has received the sanction of Parliament, he dutifully complies with it. Hampered by practical difficulties, he took the first steps he could to discharge his legal obligations to the State. Paper was not available, so he employed instead a favourite cow. Now, there can be nothing obscene, offensive, or derogatory in the presentation of a cow by one man to another. Indeed, in certain parts of our Empire the cow is venerated as a sacred animal. Payment in kind is the oldest form of payment, and payment in kind more often than not meant payment in cattle. Indeed, during the Saxon period, Mr. Haddock tells us, cattle were described as *viva pecunia*, or 'living money', from their being received as payment on most occasions, at certain regulated prices.¹ So that, whether the cheque was valid or not, it was impossible to doubt the validity of the cow; and whatever the Collector's distrust of the former it was at least his duty to accept the latter and credit Mr. Haddock's account with its value. But, as Mr. Haddock protested in his able argument, an order to pay is an order to pay, whether it is made on the back of an envelope or on the back of a cow. The evidence of the bank is that Mr. Haddock's account was in funds. From every point of view, therefore, the Collector of Taxes did wrong, by custom if not by law, in refusing to take the proffered animal, and the summons issued at his instance will be discharged.

As for the second charge, I hold again that Constable Boot did wrong. It cannot be unlawful to conduct a cow through the London streets. The horse, at the present time a much less useful animal, constantly appears in those streets without protest, and the motorcar, more unnatural and unattractive still, is more numerous than either animal. Much less can the cow be regarded as an improper or unlawful companion when it is invested (as I have shown) with all the dignity of a bill of exchange.

¹ Mandeville uses *Catele* for 'price.' (Wharton's Law Lexicon)

If people choose to congregate in one place upon the apparition of Mr. Haddock with a promissory cow, then Constable Boot should arrest the people, not Mr. Haddock. Possibly, if Mr. Haddock had paraded Cockspur Street with a paper cheque for one million pounds made payable to bearer, the crowd would have been as great, but that is not to say that Mr. Haddock would have broken the law. In my judgment Mr. Haddock has behaved throughout in the manner of a perfect knight, citizen, and taxpayer. The charge brought by the Crown is dismissed; and I hope with all my heart that in his action against Constable Boot Mr. Haddock will be successful. What is the next case, please?

ROBERT O'NEIL BRISTOW

BEYOND ANY DOUBT

Beyond Any Doubt, the work of a contemporary American writer, is an absorbing study of the deliberations of a jury in a murder trial. Balanced against the eleven jurors who stand firmly for conviction is the lone dissenter pressing the question whether guilt has been proved beyond a reasonable doubt.

The right to trial by juries impartially selected is safeguarded by our Constitution. The operative phrase here is "impartially selected" as you will see very soon.

TOM HOWELL stubbed his cigarette in the cluttered ash tray on the table. As he did so, he looked thoughtfully from face to face, at the eleven men seated around the table. They were solemn faces. Intense and resentful. The men were tired, some of them growing angry from the exhaustion of deliberation in the jury room. On the wall the second hand of the clock moved silently, relentlessly, in its course. The jury had been out for thirty-one hours, deliberating the Echols case. The vote was eleven for death. One for acquittal. The single dissenting vote had been cast by Tom Howell.

Now, strenuously urged by the judge to reach a decision, the eleven men concentrated their attention on the single vote that stood between Jack Echols and the electric chair.

Tom reached for another cigarette, sighing deeply. He very desperately wished he was back on the job at the drug store he managed. Or better still, at home with Jane, his wife, and Randy their eleven year old son, perhaps sitting comfortably on the lawn with a cool drink in his hand. There his responsibility was limited to his family. He disliked having the power to save or destroy another man's life by a single irrevocable decision.

Tom Howell was a small, very lean man. As the result of a mine explosion on Guadalcanal, he wore thick-lensed glasses which gave him 20/40 vision. While the other men in the jury room were dressed in suits and ties, Tom Howell wore no jacket. His clean white shirt was frayed at the collar, his tie was inexpensive.

The foreman was Doctor McNair, a heavy man of florid complexion, and a man of some standing in the small midwestern city. He was tolerant and diplomatic by nature. His vote had been cast for death. The others, several of them successful businessmen, had also voted for death on the first ballot.

The acknowledged leader for the death penalty group was Carl Purvis, a wealthy man who owned land and had other interests, including the hardware store where Tom Howell had formerly worked. Carl Purvis had fired Tom in a fit of anger over a mixup in a wholesale order. Carl Purvis was fifty-five years old, a political power in the county, an abrupt egocentric. He was impatient and intolerant of opposition of any kind.

Dr. McNair's voice interrupted the uncomfortable silence. "Tom," he said, making an effort to smile. "We want to reach a decision tonight. We've been over and over the case. Now . . . again I'd like to ask you to repeat your stand."

Tom Howell loosened his tie and ran his forefinger around the irritated flesh on his neck where the frayed edge of collar had rubbed. He cleared his throat, and as he began to speak, his voice cracked.

"The judge said that if there was a reasonable doubt of guilt, we should not give the death penalty. That's why I can't vote for death. I think there is a doubt that Echols killed the man."

"Oh, *for God's sake!*" The voice was Carl Purvis'. He slammed a heavy fist against the table and muttered to himself.

"The evidence," Tom went on, ignoring Purvis, "that the State emphasized, was the fact that Echols was apprehended in the middle of a robbery, with the gun that had killed a policeman three months earlier. I'm not arguing that it wasn't the gun at all. The ballistics expert showed that to be true. But Echols said he bought the gun from a man he hardly knew after they met in a bar. He swore he didn't own the gun at the time of the killing. I'm saying there is some doubt whether or not he did have the gun when the police officer was killed."

"For God's sake, Howell," Carl Purvis shouted, "do you think Echols would admit he owned the gun at that time? What the hell would *you* do?"

"I don't know. I repeat that there is simply no proof that Echols had the gun before the killing. Certainly he had it when he robbed the supermarket, but I can't believe a man who had killed a policeman would *keep* the gun. He'd know if he was caught, the murder would be traced to him. To me that would be stupid."

"It would be stupid!" Purvis said. "It would be damned stupid, but just how smart do you think this Echols is? He's spent half of his life behind bars. He doesn't have the brilliant mind that you have. . . ." Purvis's voice ended with a tone of heavy sarcasm.

"If he was a confirmed criminal," Tom said evenly, his jaws growing tense, "it seems to me that he'd have even more reason to get rid of the gun if he'd used it to kill the policeman. A first offender might not consider that, but a confirmed criminal like Echols would dispose of the gun. I think Echols bought the gun from the killer, with no idea that it had been used to murder a lawman."

Carl Purvis cursed and stood up, moving angrily away from the table.

"I think Mr. Purvis has a point," Dr. McNair said diplomatically. "The defendant wasn't very smart or he'd never have been in prison on so many counts. Do you know he raped a girl when he was seventeen?"

"Doctor!" Tom said suddenly. "We aren't trying this man for rape."

"Of course. Yes. But he had no alibi in this case. Tom, he could not prove. . . ."

"He said he was in his room at the Majestic Hotel."

"He said that," the doctor agreed, "but was he? Surely someone would have seen him enter and leave. The hotel clerk testified that he hadn't seen Echols all day. He said he thought he was gone at the time."

"Did he go look? Did he know for sure?" Tom asked.

"Howell, it's a small hotel. A flop house. If Echols had been there, the clerk would have known."

"Echols said he was drunk. He said he didn't even go out to eat that night."

Carl Purvis wheeled around and paced to the table, standing angrily over Tom Howell.

"You're pretty naive, son. You didn't expect that killer to stand in the box and tell the truth, did you? Don't you know he's been in and out of trouble all his life?"

Tom Howell adjusted his glasses nervously. This was becoming a terrible strain. Several times he had been almost prepared to tell them that if they were so certain, he'd go along with the death penalty. But at the moment, when he might have changed his vote, something had held him back. He was tempted now, but once again he resisted, although less forcefully than before.

"Mr. Purvis," Dr. McNair said, "why don't you come sit down and we'll talk this over some more."

Carl Purvis, casting an angry glance at Tom, returned to his seat, mumbling profanity.

"There was the identification by the other police officer," Dr. McNair said. "He positively identified Echols as the man who wounded him."

"True," Tom admitted. "Officer Tolliver was directing traffic when the killer drove through a light at the intersection. Officer Tolliver fired two shots and the killer fired back, hitting him in the leg. That's the way they said it happened. But the defense attorney showed that the killer's car was doing forty-five miles an hour. Officer Tolliver saw him for just an instant. I think the defense attorney was right when he reasoned that it simply wasn't possible, in a hail of bullets, to positively identify a man while he's traveling that fast in a car. The officer saw only the face, the killer was wearing a hat. I think the officer is honest, but I can't believe that he can make a positive identification." Tom Howell mopped his forehead with his handkerchief. He shook his head. "From all that testimony we heard," he said wearily, "and our discussion . . . I still think there is a doubt."

"That's right," Carl Purvis snapped, "and there's a doubt if the sun will come up tomorrow too. But it's a pretty thin doubt. You're hiding behind it, Howell."

"Gentlemen, please," Dr. McNair said.

"He should have disqualified himself for jury duty," Purvis shouted. "He isn't holding out because he thinks the man is innocent. He's

holding out because he hasn't got the guts to give death. He's never had any guts. I ought to know."

"Sit down, please, Mr. Purvis," Dr. McNair said.

Carl Purvis glared and remained standing.

How often Tom had asked himself if he could serve on a jury when a death penalty was possible. He let his mind slip back to the morning after he had been subpoenaed. Jane had put his toast and eggs on the table, but he had left them untouched, uneaten and cold.

"You're worrying about it too much, Tom," she said.

"Ummmmm . . . it's not just the jury duty. I can spare the time for that. It's the death penalty. They'll ask me and I'm not sure what to say. Who wants to have that responsibility. . . . I mean really *wants* it? And yet *somebody* is going to qualify. Maybe several of those self-righteous zealots. Can't you hear them after they've given him death, describing how troubled they were, how tremendous a decision it was? I can see it. In fact, I could name a dozen right off hand."

"But that doesn't answer your question, does it, Tom?"

He had smiled. "No . . . that doesn't make me any more certain whether or not I should disqualify myself." He pushed the eggs away. "I'm sorry," he said. He lighted a cigarette and smoked thoughtfully. "I *could* give death. I would. But I'd have to be sure. I'd have to be so damned sure I could turn over and fall asleep every night without thinking back and wondering. Does that qualify me?"

Jane had taken the cigarette from his fingers and drawn on it, returning it to him. "It's your decision," she said. "*You* know."

Tom coughed and was aware of the gnawing fear, the uncertainty in his mind. Could he change now? Should he change? Let them have it the way they saw it . . . could he hold out? He looked around the jury room.

"Look . . . I'm not eager to send a man to death. I admit that. But maybe that's because I saw too much of it. I saw hundreds of men die and I had a hand in it. No, I'm going to be very careful before I send a man to the electric chair."

He noticed several eyebrows raise. Had he admitted that he thought they might be right after all? Was this the first sign of surrender?

"Maybe I shouldn't be on this jury," he said. "I don't know. I wish now that I hadn't been called. But let me say this. If I'm not eager to give death and should not be here for that reason, I think that there are some of us here who are just a little bit too *eager* to give him death, and they don't belong on this jury any more than I do. This is supposed to be a group of impartial men . . . and I wonder if, after all the newspaper publicity, the pictures of the policeman's widow and all. . . . I wonder if any of us came here with completely impartial minds."

"See there!" Carl Purvis shouted, "he's admitting he doesn't belong on this jury."

Dr. McNair was showing frustration. "Please, gentlemen," he said. "Let's be sensible."

And for several moments the terrible silence again returned and the second hand of the clock moved, and moved.

Somewhat more restrained in tone, Carl Purvis spoke. "Howell, you used to work for me. You didn't like me and I never cared much for you. I want to say this. I think you're holding out because I fired you, and I'm on the other side. I think it has nothing to do with this case at all. You're just trying to take out your resentment against me, in this cheap, filthy way."

For the first time, Tom stood to speak, and if he had ever felt hate, he felt it then.

"You couldn't be more right," he said loudly. "I don't like you. I think you're a bigoted, egotistical slob." He was breathing hard now and he was surprised to find it so difficult to draw air into his lungs. "But I wouldn't pardon a guilty man just because I resent you. You, Mr. Purvis, are the *least* important part of this whole rotten mess. I wouldn't like you even if you were voting for acquittal. Not one damned bit. But . . ." he paused to get his breath, "I'm voting this way because I feel there is a doubt. I see that man out there waiting for a decision whether we kill him or let him live. I couldn't care less about your personal feelings for me or mine for you."

"This discussion has gotten out of hand," Dr. McNair said, "This is neither the time nor the place for personality conflicts, and I ask you not to let personal antagonism enter into this deliberation."

Tom sat and buried his face in his hands, emotionally exhausted. He remembered Carl Purvis' fit of rage, that day in the hardware store, his face growing dark, menacing, his voice loud, uncontrolled.

In the presence of the other clerks, Carl Purvis had fired him, not even learning all the facts about the mistake in the wholesale order. Not caring.

It had not been easy for Tom to get another job because the whispering that followed his dismissal hinted vaguely at dishonesty. He refused to leave town to take another position, with another hardware firm.

"No," he argued, "if I run, they'll believe I did something wrong. I'll make out and eventually people will know that Carl Purvis made an impulsive, hot-headed decision."

Tom had stuck. In two years he had added another thousand dollars to his savings. He was all right now. He had recently talked to the banker, and if his loan came through as he expected, he would soon open his own store, a fishing and hardware specialty house, on a small scale at first. But it would grow, Tom felt sure.

Tom glanced up from the table. The room had been silent for some time. It seemed uncomfortably crowded, all of them watching him wearily, impatiently.

Tom recognized the deep resentment he felt against Carl Purvis. With studied honesty, he asked himself if it *was* possible that he was holding out because of his hatred for Purvis. Did he really doubt that Echols was guilty? Again the wave of uncertainty swept over him. It would be easy to stop now, to go along with the other eleven. He considered it very seriously.

"Tom," Dr. McNair said, "look at it the other way. If you can, just look at the evidence. We are dealing with a known criminal. He's been in jail for years. He never got past the third grade. He raped a girl when he was seventeen. He beat her. He showed that he could be cruel, even kill perhaps, if necessary. He went into a liquor store with a mask and held the place up. Then he got in the car and started off. The policeman reached the scene, and when he tried to stop the criminal, he was shot down. The killer then made an escape, wounding the traffic officer as he fled. Later . . . Echols was arrested in possession of the gun that had killed the officer. He

was checked out carefully and he could give no alibi at all. Echols didn't deny owning the gun. He said he bought it from a man and described that man vaguely. He couldn't even give the man's first name. The traffic officer who tried to stop him identified Echols as the man who shot him in the leg. Now, our point is this . . . if Echols could prove that he had been in his room . . . or if he could prove that he had bought the gun from someone, and provided a name, it might be different. If the police officer had even said that he was *almost* sure that Echols was the killer . . . then Tom, we feel there would be doubt. As it is, Echols has failed to clear himself, on any single point. Nobody really wants to send a man to his execution. It would take a neurotic sadist to enjoy that.

"And yet . . . can we turn men like Echols free? Are our police officers to go out and patrol, knowing that they may be killed, if the people they are protecting do not in turn protect the officers? Tom, please . . . we have a responsibility here. Eleven of us are deeply convinced that Echols was the killer. We have no doubt. Don't you think, as a medical man dedicated to saving lives, that if there was any doubt, I'd be the first to vote against the death penalty?"

"I think you would," Tom agreed.

"Very well. As foreman, I'm calling a coffee break. Let's all relax and reconsider the facts. After the break, we will take another ballot. Someone rap on the door and send out for coffee."

One of the jurymen went to the door and ordered. Then, splitting up into groups, the jurymen talked softly to one another, leaving Tom alone at the end of the table.

Tom overheard the high-pitched tenor of the music teacher as he discussed the case, the talented hands gesturing in jerky movements.

"Well . . . if you want to know what I think. . . . I think this criminal is not *worth* salvaging. I frankly don't have any doubt, but if I did, I think I'd just take into consideration that he isn't worth the risk he poses to good decent people. Now, I mean that's just my idea, but he's simply *nothing*. Nothing!"

Tom removed his glasses and wiped them clean with his handkerchief. He discounted what the music teacher said. It was only to be expected from an overly emotional man. But Dr. McNair, he thought, was an

honest, level-headed, decent man. He *was* committed to the saving of lives. Certainly he would be the last to condemn a man to death if there was any doubt. The concise, simple way he had presented the argument left Tom with less conviction that Echols was innocent. If only he could remove that lingering uncertainty. Could he be right, when all the others were so thoroughly convinced? He wondered if perhaps, in his feeling for the underdog, he had given too much credence to the presentation by the defense. He didn't want to send a man to death, and yet, if Echols was guilty, he knew that he had to make the decision.

The gun, the lack of an alibi, the identification of the police officer . . . it was damning enough. Yet, somehow he couldn't find it conclusive.

He remembered the looks on the faces of the townspeople after he had been fired at the hardware store. Some of them, on the basis of circumstances, were ready to believe that he had been dishonest, that he had been fired for that reason.

There had been no way to defend himself against these unspoken accusations. There were the long nights, lying awake, projecting their faces on the shadowy ceiling, mentally gauging their distrust of him.

Tom wondered if he was unwilling to believe that Echols was guilty because of his own experience. *Was he in reality only defending himself now? Or was there a genuine doubt?* He wondered.

None of the other men were in question. The music teacher. The football coach. The businessmen. They all knew. They found no agony, no doubt, in rendering a decision. Tom lighted a cigarette, and while it tasted raw in his mouth, he smoked it thoughtfully. If *they* were so certain, he reasoned that he must be wrong. If only one of them had been in doubt, it would have made a difference.

But they had not shown such doubt. He was alone. He had never been so thoroughly alone in his life. He considered how easy it would be on the next ballot to write *guilty*. A word. A single word that would relieve him of all responsibility. He took a slip of paper and wrote the word, speculatively. He studied his writing. It was not as difficult as he had imagined. If he put his faith in the other eleven men, it would not be hard. If he did not, he was again very much

alone. He told himself to stop the fight now. *Vote guilty. Vote for death.*

It would be easy. Or would it? Maybe it didn't stop there. It was just possible that if he appeased these men here, he might appease them outside the courtroom. *Go along with the crowd. Don't be a dissenter. The way to get ahead is to go along. Sell out.*

He glanced up as Carl Purvis drew a chair beside him. "Tom . . . I'm a blunt man," he said levelly, without anger, "and I know you've been to the bank to borrow money to start a hardware store in competition with me. That doesn't bother me. I can take competition. There's room enough for both of us. I said I was blunt, and I am. I have a strong vote on the board of directors at the bank. It comes down to this. If you vote with us, you get the loan. If you don't, I'll stop it. The rest of us are convinced. Now just face the truth and go along. You'll have your loan and a lousy rapist criminal will go to the chair. If we don't give it to him, he'll kill somebody else before it's over. He'll go there one way or another. All you do is ease off and go along. That shouldn't be too hard."

"You mean that?" Tom asked. "About the loan? You really do?"

Carl Purvis spoke softly, but with strength. "I mean it. You can yell your head off and I'll deny ever saying it, but, boy, you'll know!"

Carl Purvis pushed his chair away and joined the others as coffee was brought into the room.

Tom drank slowly, very thoughtfully. He refused to allow himself to grow angry. Not now. What Purvis had said was undeniably true. He was in a position to block the loan. And yet, perhaps, considering the testimony, Echols *was* guilty. If so, he should face the death penalty. Then there was also Dr. McNair's studied decision. Tom respected that. There were the facts as they had seen them. Echols was a confirmed criminal. Freed of this crime, he might go on to commit another that would inevitably lead him to the electric chair. Eleven against one. Were they right? He considered his long-cherished hope for a business of his own. This too was in the balance. Was he so certain that Echols was innocent that he would sacrifice his own future?

Dr. McNair hesitated as he reached Tom's chair. Tom felt the doctor's hand on his shoulder. "Tell me, Tom," McNair said, "do you really have a doubt? Or is it too difficult to back down?"

Tom looked up into the doctor's face. He was very tired. "Have you asked yourself the same thing?" he said.

"What do you mean?"

"With the comfort of ten others, it might be hard for you to change too."

Dr. McNair did not reply.

"I know how I *feel*. I feel like he's guilty," Tom said.

Dr. McNair raised an eyebrow and leaned closer. "Go on," he said.

"But . . . they didn't prove that in court. They left some doubts. Not for the others, but for me."

"Yet, you feel . . ."

"Yes, I feel he's guilty. Do you want me to vote what I feel or what I know?"

Dr. McNair shook his head slowly.

"Maybe sometime—I don't really know—but maybe you had a patient and you felt certain that you had diagnosed the trouble. Maybe you treated it and later, when the patient died, you found that it was something else. Maybe some of these men just don't want to doubt. You probably don't even understand . . ."

Dr. McNair looked about the room thoughtfully. "We'd better start," he said softly. He took his place at the head of the table. The others followed quickly. "Gentlemen, in a spirit of deep sincerity, I ask you to draw a paper and pencil and cast a ballot."

The men wrote quickly and folded the one-word messages as Dr. McNair passed the plate. Tom studied them before writing. He considered the prisoner waiting below. He considered his wife and Randy. The small business he wanted so badly. And before he wrote, he considered the facts in the case—those controversial facts that were so strangely elastic in interpretation. Was there really any doubt? The key word. *Doubt*.

Tom was the last to drop his paper in the plate. He had written thoughtfully. The plate was then handed to the foreman.

The doctor announced seven guilty votes before he paused. "Not guilty." Dr. McNair read, and dropped the paper on the table.

Tom Howell stood slowly. His voice was so subdued that the others leaned toward him to hear him.

"Once and for all," he said, his eyes growing damp behind his thick glasses, "I vote for acquittal. As I do so, I know the very great responsibility I have taken. I can tell you now that if we sit here and deliberate until the world ends, I will not change my vote. I will under no circumstances change my vote. Not to please you, . . . nor help you get this over with."

Tom sat down. Dr. McNair shuffled through the ballots. Tom glanced quickly at Carl Purvis. Perhaps what hopes he had had for the bank loan were destroyed by his brief announcement. He suspected that it was just possible that the board of directors would ask Purvis not to cast a vote, since the loan involved a business competitive to his. It did not matter. Tom would get the money somehow, someday.

He knew also that if he was deeply disappointed in this, still he had acted in good faith. He would not have to live without respect for himself.

"That wasn't really necessary, Tom," Dr. McNair said gently. He gestured with the ballots. "I had not finished counting." The men sat silently. Dr. McNair lighted a cigarette. "The vote has changed," he said. "It is now two for acquittal, ten guilty."

Tom let his eyes move quickly from man to man. He saw the surprise register in the face of the music teacher. It was not so comfortable now with two votes opposing him. His narrow face was troubled. Tom saw indecision there, a weakening. He glanced at the coach. He looked as though he might be ready to call another play before it was too late.

And Tom heard Dr. McNair's voice, coaxing, and sensed that it was he who had changed his vote.

". . . not what we feel, but what we know for fact. This is the basis, and if there is doubt—as two of us believe now—"

Tom detected the change that had taken place in the room. Even Purvis was nodding with McNair.

Tom Howell adjusted his glasses as the weariness began to leave him. He was feeling better. When the time came, he had rewarded himself with human dignity by standing alone. This was enough.

The music teacher raised his hand, like a schoolboy, and asked for another vote. Tom smiled and reached for his pencil. It would be over soon.

VINCENT STARRETT

THE ELEVENTH JUROR

Mr. Starrett is a book reviewer for the Chicago Tribune. The fictional recital that follows describes in a fascinating manner a surprising incident in the deliberations of a jury in a homicide case. *The Eleventh Juror* has been referred to by Ellery Queen as a "classic crime story."

THERE are few practicing citizens of the republic, I guess, who some time or other have not been called for jury service. The system is impartial, and, like lightning, you never know where it is going to strike.

It's unlike lightning, though—or the way lightning is supposed to operate—in one respect. It does, often, strike more than once in the same place. I have a friend, for instance, who has served on a dozen juries in as many years, in cases ranging anywhere from leasehold troubles to first degree murder. He doesn't particularly like to serve, but he's one of those citizens who think they owe a duty to the state, and all that sort of thing. And I have another friend who has been called a dozen times and hasn't served yet. He's an accomplished liar, and always manages to get the judge to excuse him.

Of course, it's easier to get excused in a big case than in a little one. The lawyers are more particular in a big case. If you want to dodge, just wait for the right question, and then give the wrong answer. If the prosecutor wants to hang a man for murder, tell him you are opposed to the death penalty, and before you know it you'll be collecting your coat and hat and heading back for the office. Or just suggest that you have followed the case pretty closely in the newspapers, and have formed a strong opinion about it. Something like that. It will always work; nearly always.

They don't really need you on a jury. There are always enough men who *want* to serve because they like it. It's a vacation from home and work, and it gives them a feeling of consequence to be sitting around in court, as important as the judge. Fountains of wisdom, and all that. They claim to be unprejudiced, and really they are a lot more prejudiced

than the fellows who beg off. God help the prisoner who gets a jury of wiseacres that really want to sit in judgment on him! Who claim they haven't formed an opinion!

However, this isn't an essay. What I started out to tell was the story of my own first jury service. We were out for ten days without getting a verdict, and all the time—from first to last—the count stood eleven for hanging and one for acquittal. I was the juror who held out. On the eleventh day, we returned a verdict of not guilty, and the prisoner was acquitted. He became one of my best friends, for of course the newspapers found out that I had swung the jury, and he came around to thank me. About a year after the end of the trial, without any urging on my part, he told me something I had suspected from the beginning of the case. In fact, it had been part of my argument to the other jurors during ten days of talking, though I didn't dwell on it a lot. He said he didn't know—actually didn't know—whether he had committed the crime or not!

Of course, that didn't come out at the trial, although the idiot wanted to tell it. He was too honest to live. Fortunately, his lawyer was less scrupulous.

Horace Thistlethwaite was his lawyer—a tongue twister of a name that made the courtroom laugh every time the prosecutor mispronounced it, which he did every chance he got. Ricketts was the prosecutor's name, so he didn't have much call to laugh at Thistlethwaite; but it never occurred to Ricketts that there could be *anything* funny about himself. I suppose the case is pretty well forgotten by this time, but it was a good one while it lasted. Good enough, anyway. Chicago may have two or three bigger and better ones, every year, but this one caused some talk in its day.

I had been interested in the case from the beginning, and had read everything I could about it, in all the newspapers; but the last thing I thought of was that I would get a chance to serve on the jury that tried Murray. I was never more surprised in my life than I was the day the summons came. But I knew at once that I was going to serve on that jury unless I was thrown off by one side or the other. I couldn't think of any reason why I would not make a perfectly fair juror, and that was the attitude I intended to carry into court. But

it struck me as remarkable that after the years the jury call had missed me, I should be called for service in a case that fascinated me the way this one did.

Of course, I couldn't be positive till I was sitting in the antechamber of the courtroom that it *was* the Murray case I was in for; but I was sure enough, for I had been following the papers, as I say, and I knew they were having a hard time getting a jury. They had already exhausted a couple of panels of veniremen, because it seemed that everybody had read about the case and had an opinion. The defense lawyers were afraid of men who had read about the case, and I didn't blame them. It certainly looked bad for Murray. But who *hadn't* read about it?

However, they got a jury. It was touch and go, as far as I was concerned, for they already had ten men accepted when I came in; ten whopping liars, sitting there as big as life, itching for the case to commence. I lied too, for I wanted the job as much as they did, and after the usual line of questions I got it. I said I had read very little about the case, had no opinions about it whatever, and was not averse to the death penalty; and I never told three bigger lies in a row in my life. After awhile, they caught another plausible liar, and there we were, twelve of us, all innocent as—I was going to say innocent as the twelve apostles.

The case began to unfold next day. As I looked around at my fellow jurors, it occurred to me that I had never seen eleven more ridiculous fatheads. However, that was what the prosecution wanted, and probably what Thistlethwaite wanted, too. It's a great system, the jury system in this country! If you look as if you might have an ounce of intelligence, neither side wants you; but give a lawyer twelve complete fools, without an idea between them, and he's happy. He knows if he loses his case it's his own fault.

Well, the wheels began to go round, and before long I was listening to everything I had already read and knew all about. The principal witness for the state was Patrolman Witte of the Waterside Station, a good-natured fat old hippopotamus, who must have been on the force to prove that the Irish don't have a monopoly on all the appointments. He told a straight story, though, and stuck to it like a good copper. . . . On the night of umpty-ump, or about two o'clock the next morning, to be exact, he had heard three shots fired in close order,

and had hurried toward the sound. At Lambeth Avenue and Belvedere Road, he had found the prisoner, James Murray, standing still, looking at a revolver in his hand. Not far away was the body of a man, and the man had been shot to death. Questioned by Witte, the prisoner had denied all knowledge of the shooting, but was unable to tell why he carried a recently discharged revolver. He seemed dazed, Witte said, and had evidently been drinking heavily. He made no attempt to escape, but went along quietly when Witte told him he was under arrest.

In a little while the whole story had been outlined. The dead man had been identified as Howard Blessing, a widower, and death had resulted from a bullet wound in the neck and another in the heart. Murray had been taken to the station, and the body of Howard Blessing had been taken to a neighboring undertaking establishment. Nobody called it a parlor, I remember, and I decided that only undertakers called their places parlors. Murray had been locked up and had slept like a log all night and part of the morning; then he had wakened and continued his denials. Later, after a coroner's committee had held him to the grand jury, he had been formally charged with the murder and indicted. Witte didn't tell all this, but it came out early in the case and was corroborated by everybody concerned.

Naturally, the mystery was considerable. Murray denied flatly that he ever knew Howard Blessing, the inference being that in those circumstances he would hardly have killed him, even as a matter of drunken target practice—which didn't necessarily follow. He also denied that he ever carried or ever had owned a revolver, and in this he was supported by a lot of his friends, all very good citizens. Murray was a good citizen, himself; that was one of the things against him, really. He was smug, and prosperous, and he wore good clothes; and, even worse, he had a reputation as a sort of small-time reformer. That sort of fellow, when he's caught in something disreputable, like bootlegging or murder, doesn't make much of a hit with a jury of average citizens.

He was one of the last witnesses in his own behalf, and he made only a fair impression; and when he told his story of what had happened that night at Lambeth Avenue and Belvedere Road, he didn't make any impression at all. It was a pretty thin tale, and even his lawyer knew

it. Murray admitted that he'd been drinking pretty heavily with some of the "boys," and the "boys" had already supported him in that. In fact, they all swore that he couldn't have held a revolver steady, even if he'd had one, which they knew he didn't. A fine tale to have to tell about a fellow associated with reform!

Murray also admitted that he wasn't walking toward home when the shots were fired on the corner, but he blamed that on the drink. He said, with an air of great candor, that he had been completely malted on the night in question, and hadn't any idea why he was at that intersection, holding a revolver in his hand. Somebody must have given it to him. Anyway, he knew he hadn't shot Blessing. He was clear enough to know that, he said. Personally, I doubted it. He was a rather good-looking fellow, with a young wife who seemed to be all legs and eyes. She was probably pretty, but she looked like a corpse, herself, sitting there beside Thistlethwaite at the table.

Ricketts, a thin small man, with a sharp nose and eyes like a cornered rat, rode Murray pretty hard, but the prisoner stood up to it and stuck to his story. They didn't shake him an ounce, not even after the Pearson woman had weakened under Ricketts's battering.

This Pearson woman was one of the star witnesses for the defense, or was supposed to be; but she wasn't strong enough for Ricketts's bullying, and after a while nobody could tell whose witness she was. She was a plump little, peering sort of old lady, the sort that *would* see everything that was going on around her, and tell about it, too. Her story, on direct examination, was clear enough, although she had to be coached a little. She had been sitting at her window, in Lambeth Avenue, waiting for her husband to come home—He *wasn't* one of the "boys," she snapped, when Ricketts interrupted—and she had seen two men pass her window, a short time before the shooting. She had heard them quarreling—violently. One of them was waving his arms. She had taken particular notice of them, and she was sure that neither of the men was James Murray; they were both much bigger men. She was also pretty sure that one of them *was* Howard Blessing. It was pretty dark, she admitted on cross-examination, but she saw them quite clearly, because there was a light not very far from her house. She had heard their voices, too, and neither one of them sounded like the voice of James Murray.

Then Ricketts exploded a couple of bombs. He was particularly sarcastic on the subject of Murray's voice, but there was no need for his being so brutal with her. Even the boobs on the jury had noticed all *he* had. The woman was hard of hearing. She was all right when Thistlethwaite had her, for he kept his voice up—it's pretty high, anyway—and she knew what he was going to ask; but Ricketts turned her inside out. What she had to tell wasn't so much, but it was less when Ricketts had finished with her. He kept his voice down on purpose, and all the time she was saying "What?" and "How?" and putting her hands up to her ears. First of all, he made her admit that she hadn't heard the shots. Thistlethwaite had carefully kept away from that question. And in the end, Ricketts forced her to confess that she wasn't very sure of anything. She *might* have made a mistake. She couldn't *swear* that one of the voices she had heard was *not* Murray's. The man she had taken for Howard Blessing *might* have been someone else.

The things Ricketts said can be imagined. She hadn't even heard the shots, a quarter of a block away; she couldn't even hear his questions right there in the courtroom; and yet she could testify about the voices of two men passing her window! And, of course, he looked over at us, triumphantly, every time he made a point. The woman was nearly crying. Thistlethwaite got her again, as quickly as he could, and tried to soothe her. He managed to bring out that the immediate reason for her poor hearing was a cold in her head, whereas on the night of the voices her head had been clearer; but even the judge grinned at that.

The other defense ace was a janitor who had seen a man running. That was all. The man who was running had been seen by the janitor, on Lambeth Avenue, some blocks from the scene of the shooting, not long after it had occurred. The suggestion there, of course, was that this running man had shot Howard Blessing and then taken to his heels. Which was all right as far as it went; but it didn't explain James Murray, standing there on the spot with a revolver in his hand, and three of the chambers empty.

However, the defense had a trump card that even Ricketts couldn't beat. Blessing, a widower, always carried around with him a miniature portrait of his wife. All his friends knew this, and some of them testified about it; one of them swore he had seen it in Blessing's possession the

very night of Blessing's death. Blessing had shown it to him, in the friend's home, just before he—Blessing, that is—started for his own home on the trip that he never finished. And the miniature was missing. It hadn't been found on Murray, and it hadn't been found in the neighborhood of the murder; and it hadn't been found on Blessing's body.

It was a lovely point, and it hinted at all sorts of things. It furnished just about the only hint of romance the case had, and the newspapers had played it strong, from the beginning. Pictures of the girl—Blessing's wife—were in every edition. Every man on the jury knew what she looked like, although she had been dead for some years. Thistlethwaite, of course, made the most of that missing miniature. Ricketts just shrugged it out of existence, as if it didn't matter, anyway.

I suppose nearly everybody believed Murray to be guilty, and probably everybody thought something discreditable was being hidden, or wasn't known; something that would connect Murray with Blessing's dead wife or something that would connect Blessing with Murray's wife. I heard some pretty rough guesses made in the jury room, myself, the first night out.

From the beginning, Thistlethwaite stuck to one story. It wasn't much of a story to impress a jury, but it was all he had, and he did what he could with it, which was a lot. Everything he brought out contributed to it, and finally got into his plea to the jury. He knew that his only chance to clear Murray was a great speech, and when the time came he made it. The fellow certainly could talk. He was tall and thin, and would have been good-looking if his face hadn't been pock-marked. His hair had a curl and a wave that was the envy of every woman in the courtroom—and they were there in regiments. He looked like an actor, and he should have been one. He won most of his cases. That's why he was in this one. Without Thistlethwaite, Murray wouldn't have had a chance.

Well, it was my first jury service, and I listened for all I was worth. I was interested in the case, anyway, as I said, and had my own opinions about it. It was as good as a vaudeville show, sometimes, to watch Ricketts and Thistlethwaite in action, particularly when they got after each other. Ricketts was a snarly, sarcastic little devil, and sharp as a whip. I remember once when Thistlethwaite was going after Witte

pretty strong, early in the trial, about the exact minute he had heard the shots, and just where Murray was standing with reference to the body, and what the position of the moon was, and so on, Ricketts smiled out of the corner of his face, with one eye on the jury, and said: "Apparently it is Mr. Whistlewhite's idea that we have erred in failing to call the moon as an essential witness in this case."

Everybody snickered at the name, as usual, then everybody roared; and the bailiff pounded and howled for order, although he was grinning like a black comedian himself. Thistlethwaite's only reply was: "I should have been very glad, Mr. Prosecutor, had it been possible, to call the moon as a witness for the defense. I have no doubt that its long experience as an eyewitness would have enabled it to interpret what it saw more correctly than the human eyes of Officer Witte." Which wasn't so good, I imagine, for nobody laughed.

Later, though, Thistlethwaite got a chance to compare the combination of Ricketts's voice and Ricketts's argument with a jew's harp, and all the defense followers cheered up and chuckled. And, of course, whenever anything of that sort was sprung, we in the jury box got a smile and a glance from the orator who was doing the talking. That sort of thing is always for the benefit of the jury. We didn't any of us like Ricketts, but he had Murray dead to rights, and he knew it, and we knew it. Not that Thistlethwaite was popular in the jury room; he wasn't. He was a bit too oily, and half the time he was over the heads of—well, say eleven of us. But on the whole, I think we liked him better than we did Ricketts—maybe because he had a losing case and was putting up a good fight.

Sometimes the two of them wrangled together over nothing in particular until the judge, who always looked half asleep when he wasn't drawing heads or something on his blotter, would get tired of it and ask them to get along with the case. Sometimes the judge called a recess when the razzing was getting pretty furious, and when he came back from his chambers he would always have a fresh chew of tobacco in his cheek. He had a chopped moustache, and reminded me of a veterinary surgeon I used to know.

After the evidence was all in, the main talking began, as I said. Ricketts, sneery as ever, talked as if it was all over but the shouting. The newspapers called him a "hanging prosecutor," and it was a hanging

he wanted in this case. He drew a lot of inferences that weren't justified by the evidence, it seemed to me, to give Murray a motive for the crime; but there wasn't much that it was necessary for him to say. His case was complete when Witte finished giving his testimony. Murray had been caught red-handed, whatever his motives may have been, and that was that. He had taken a human life, and the law demanded his own in return. A silly idea, but there are a lot of silly ideas in the world, parading as wisdom.

Thistlethwaite, of course, took another tone. He was bitter when he referred to Ricketts's conduct of the case; but for the most part he delivered an address that might have come out of a Sunday serial. He pictured Murray as a victim of circumstances, a man of fine reputation who was to be blamed only because he was fool enough to get drunk and stagger into a mess. Considering the little he had to build on, his story was a good one. You could see the whole scene the way he described it: Murray, so fuddled he didn't know what was going on, meandering home the wrong way, probably making speeches to the moon, blundering onto the body of Howard Blessing a minute or two after the shooting, seeing the revolver on the ground beside the body, picking it up like an idiot, and finally standing there dazed as Witte came up and arrested him. Meanwhile, Thistlethwaite said, the real murderer was fleeing for his life, making a clean getaway, seen only by an owl janitor who hadn't even caught a glimpse of the runner's face.

In support of Thistlethwaite's reconstruction, we had, of course, the janitor's slender testimony, and the evidence of the Pearson woman, as much of it as hadn't been laughed out of court. I always believed, myself, that she *did* hear the voices she said she did. The men were quarreling, and their voices probably were pretty high.

Finally, Thistlethwaite continued, there was the matter of the missing miniature. It completely exonerated Murray, he contended. It had to be either on Blessing or Murray, if Murray was the murderer; there hadn't been time for Murray to throw it away or hide it. So he ran on, and it was a first-class speech. He pointed to Murray's blameless life, and his distinguished friends, and wanted to know why under the canopy a man who had never handled a revolver in his life

should on this occasion beg, borrow, or steal one and murder a man he had never seen or heard of before.

Oh, it was a masterpiece of a talk; but as Ricketts pointed out in his final address, it was all pure guesswork. In spite of everything anybody could say, one *fact* remained unshaken—James Murray, standing over his victim on the corner, with the discharged revolver in his hand.

As for Murray's drunkenness, Ricketts said, it was no excuse. He was willing to admit that in cold sobriety Murray might not have lost his temper and Blessing might have gone on living. It was absurd to assert, however, that there had been no quarrel between them. Whatever their differences may have been, they were obviously enemies. If we, the jury, believed that drunkenness excused cold-blooded murder, he added sarcastically, then we would, of course, acquit Murray and thereby encourage others to get drunk and go man-hunting; but if we believed that human life should be protected against the insanity of drunken beasts, whatever their reputations when sober, it was our duty to make an example of this particularly obnoxious specimen. And so on. It wasn't as picturesque a speech as Thistlethwaite's, but it carried a lot more conviction.

As a matter of fact, as far as the other eleven jurors were concerned, Murray's goose was cooked long before the final addresses. I knew that. Even the eyes and legs of Mrs. Murray hadn't helped much.

Then the judge adjusted his nose glasses and shoved his stomach up against the corner of the bench, and read his instructions, which were a fair enough summing up of what we had heard from both sides. On the whole, the instructions were a bit favorable to the prosecution, which was to be expected; but we were told that if we entertained—that was the word—a reasonable doubt of Murray's guilt, it was up to us to acquit him of the charge. After that we paraded to the jury room, and the real trial of the case began.

A smug animal named Dean, a printing superintendent somewhere, was our foreman, and he was as important about it as if he had been appointed minister to Dublin. Dean had served on juries before, although he'd never been a foreman until now, and he knew the ropes. We began by taking a trial ballot, just to see where we stood, and the vote was eleven for conviction and one for acquittal.

I knew who the *one* was, and I didn't see any reason for leaving the others in doubt.

"I'm the fellow, boys," I said. "Try to convince me."

They did. Dean in particular seemed to take it as a personal quarrel with him that I had. He seemed to think it inconsiderate of me to hold an opinion opposed to the views of eleven others. He had an idea that if we had all been agreed, somehow it would have been a feather in his cap to report right back to the judge, like a bunch of boy scouts who had finished an assignment. The others thought it was funny, at first, and were chiefly interested to know my reasons for believing Murray innocent. They hadn't seen a chance for him at any time, they said. They were kind of sorry for him, but not much. As for his being innocent—!

"It's an open-and-shut case, Russell," one of them said. "Thistlethwaite made a good talk, all right, but he didn't have a single fact. It was all moonshine. I wouldn't hustle anybody off to the gallows, or even to the pen, if I had any doubts; but I haven't—not a doubt. This guy's going to get what is coming to him. He's as guilty as Judas Iscariot."

"He's being framed," I said. "He was drunk, and he happened along at the right time, and the murderer used him. That's the way I figure it. Thistlethwaite thinks Murray came along and saw the gun, and like a damn fool picked it up, just in time to get caught with it. I think the murderer stuck the gun into Murray's hand, just before he ran off himself. No wonder Murray was dazed!"

"Bunk!" said one of the others. "He was dazed because he was soused. He planned it all in cold blood, then licked up a lot of liquor to give him nerve to see it through."

"You think Murray knew Blessing?" I asked. And they all answered at once: "Sure thing!"

"There wasn't any testimony to show it," I said. "Ricketts just said that. There wasn't any proof."

"There didn't have to be," Dean said. "It stuck out all through the case. Why would he want to shoot him if he didn't know him?"

"That's what Thistlethwaite wanted to know," I told him. "He wouldn't—and he didn't. That's the answer. And how about the miniature?"

"He didn't have it on him," said Dean, meaning Blessing didn't have it on him. "Ricketts had the dope on that. He couldn't have had it on him. The fellow who said he did was probably lying."

"Lying, your grandmother," I said. "He saw it half an hour before Blessing was shot. If that miniature could be located, we'd know a lot more about this case than we do now, and Murray wouldn't be in danger of swinging."

"If your grandmother had four wheels she'd be a box car," said Dean.

"You fellows are just sore at Murray because he's a reformer who got drunk," I said. "I don't blame you for that, but it's no reason for supposing he committed murder."

"That's a lie," said Dean. "Anyway, it's a good reason, in my opinion."

So it went, off and on, for ten days. We picked that case to pieces. We went over every bit of testimony. And it ended just the way it began. Everybody but me wanted to convict Murray, and most of them wanted him hung. The longer we were out, the sorer they all got at Murray—and, of course, at me. They hated me like poison. They probably thought I'd been fixed, and was holding out on orders.

One of them—Dean—started to say something about it, one day, but I said some things that quieted him for a couple of hours. In one way, I had the whip hand. I didn't have any family waiting for me at home, and all the others had. They were all married men, and they were pretty sick about being kept away from home, after they'd been out a few days. At first, they had all thought it was a great lark.

I didn't care how long we were out. I knew it was my job to save Murray's neck. Not that I cared a hoot about Murray, but I was positive he was as innocent of the murder as Dean himself. Every once in a while the judge would send his bailiff in to see how we stood and whether there was any chance of our reaching a verdict. I thought a number of times he would call it a mistrial and discharge the jury, but he didn't. Eleven to one sounded pretty good to him, I guess.

He figured that sooner or later I would cave, and there would be a verdict for the state.

The bailiff used to take a hand in the argument, sometimes. He thought I was a stubborn ass, and didn't hesitate to say so. He said he had heard all the evidence, too, and he was sure Murray was guilty.

"What do you care whether he swings or not?" he asked. "It ain't your funeral. Come on, boys, let's get a verdict, and we'll all go home." At other times he would say: "What do you think you are, Russell? Chief justice or something? What right have you to say this man isn't guilty when these eleven men say he is? Do you think your brains are better than other people's?"

So it went. They didn't budge me an inch. I argued right back, and went over the whole ground with them like a teacher, time and again. And I didn't budge them an inch, either.

After a while they began to get even with me. The bailiff was at the bottom of that, I think. The other eleven used to have cigars, all of a sudden, when I didn't; and a couple of times I thought my food wasn't quite up to scratch, though it all came from the same hotel kitchen. Then one night somebody upset a pitcher of water in my bed, just before I had to use it; and my clothes used to disappear mysteriously, a few minutes before I needed them. I was taken over the jumps, all right. It was a regular initiation. It narrowed down, at last, to a survival contest. Nobody spoke to me, and I didn't speak to anybody. Any one of them would have been glad to take a punch at me, and a few times I thought some of them were going to do it. And every once in a while Dean would call for another ballot, just to see whether I had changed my mind.

Well, the eleventh morning rolled around, and the ratio was still eleven to one. The judge's bailiff came in and dropped a hint. He said if we didn't reach a verdict that day we were going to be discharged. He may have been lying; I don't know; but that's what he said. Everybody cheered up but me. It was going to be over soon, one way or another, they figured. They weren't so angry at me that morning.

When I still held out, they just laughed a little, and Dean said: "Well, you certainly stuck it out, Russell. I've got to hand it to you."

"Thanks!" I said.

But I wasn't pleased at all. A discharge of the jury meant another trial for Murray, probably, and I knew that next time he wouldn't have someone like me on the jury to save his neck. I thought it all over, and there was only one thing to do; so after dinner I did it.

"Boys," I said, "or gentlemen, if you like, the time has come to end all this funny business. We haven't been able to agree, and it looks as if the judge is going to let us disagree. That doesn't suit me, for I believe Murray is innocent. I don't want another jury to convict him. I want this jury to free him. Last night, I went over this case pretty carefully, and I can tell you just what happened that night on that street corner, as clearly as if I was there. Maybe I dreamed it; maybe I just figured it out; but this is the way it goes. . . .

"About ten years ago, let's imagine there was a man named Smith—call him George Smith. Suppose he fell in love with a girl, and that it was an honest-to-God thing. Maybe he was an electrician, or something like that, in a small town in Ohio, where the girl lived. Anyway, I imagine he didn't have money enough to get married, so he and the girl just drifted along, liking each other a lot, and hoping that some day it would be all right. He would have taken a chance, and so would the girl; but suppose her father was dead against it. Then suppose Smith got a chance to make some money—good money—in another city, and went away. The girl, of course, was going to wait for him, and maybe she would have waited, if it hadn't been for another fellow. Suppose this other fellow was a hardware salesman, a fellow who made that town every once in a while, a flashy, good-looking young fellow, with enough money to make it look like it was more than it was. Then suppose he took a fancy to this girl, too, and that his name was Howard Blessing."

That gave them all a shock. At first they hadn't known what I was talking about. Now they began to prick up their ears and look at each other.

"Well," I said, "suppose all that, and the rest ought to be easy to guess. It's the sort of thing that happens in life, a lot oftener than you think. What happens? As soon as Smith is out of the way, Blessing begins to work on the girl. He fills her up with a lot of stories about Smith, some of them pretty tough; and, with the girl's father to help him, it isn't long before Smith isn't getting any answer

to his letters. Then, one day, he gets a letter from the girl that knocks him over. Maybe it's a year after he's gone away; about the time he's thinking about going back to marry her. And she says she's going to marry Blessing.

"There's the situation, and you can't blame the girl altogether, because Blessing is a good plausible liar, and Smith isn't there to defend himself. There isn't anything Smith can do, is there? He can't figure it out, of course, because he doesn't know all the dirty stories Blessing has been telling about him. Maybe it doesn't break his heart exactly, because men's hearts don't break easily; but it makes him pretty mad. He already hates Blessing, who is a pup. Smith has always known that, the way men know about each other. All right! Smith stays on where he is, and after a time he gets the wedding announcement, and that's that. The chapter's over. That's what Smith thinks; and probably that's what Blessing thinks."

Well, I had them, all right. The story got them, as I thought maybe it would. They began to smell a rat. But Dean wasn't letting me get away with too much. "That's very pretty," he said. "You ought to write a story about it, Russell. You've sure got an imagination. But what's it got to do with Murray?"

"Let me finish," I said. "Maybe I'm only supposing a case, but you'll find it fits the facts. What happens afterwards? You don't need three guesses to know that. The years begin to run, and after enough of them have gone by, one day Smith gets a letter from the girl's mother. She's always liked Smith, and she writes to tell him that her daughter—that is, Mrs. Blessing—is dead. She doesn't beat around the bush for words, either, and what she has to say about Blessing is plenty. He's everything that Smith already knows, and then some. The old woman is broken-hearted, and she's mad—both of them. She writes to Smith because she's got to write to somebody. And, of course, it's the old story again—as old as what happened to Smith. Blessing hadn't panned out very well, and when he'd got to running around with other women, it was the finish for the girl. But instead of getting a divorce, the girl commits suicide, being that kind of a girl. She must have had a terrible time, to do that. Maybe you can imagine her. She probably looked like the pictures you've seen of Mrs. Blessing.

"Well," I said, "now you've got the beginning of the story. Smith, of course, writes a letter to the old woman, trying to buck her up; and privately he tells himself what he's going to do to Blessing if he ever meets him. Because Blessing has killed the girl just as surely as if he had knifed her. They don't call it murder, maybe, but that's what it is. Isn't it?"

About half of them nodded their heads; and I was pretty glad they were all married men. Probably some of them had daughters; I don't know.

"The girl's mother, you see, has spilled the beans," I went on, "and Smith knows now how Blessing happened to cut him out. And the end of the story, of course, is what happened the night Smith met Blessing at Lambeth Avenue and Belvedere Road; the night Mrs. Pearson was looking out of her window, and didn't have a cold in her head. It was a long time after the girl had died, of course, and Smith and Blessing had met once before that, but Blessing had got away. He ran. That's how Smith knew Blessing was in the same city as himself, this city in which we're sitting now. If Blessing had known it in time, he'd probably have shipped for Africa. That's the sort of a coward he was."

By this time the whole eleven of them were listening with both ears, for they had tumbled to the fact that I knew Smith and knew his story; they knew I *must*. Well, I did. Even so, one of them sneered a bit, and said: "You seem to know a lot about it!"

"I do!" I said, and went on with the story:

"The second time Smith met Blessing was that night, and Blessing was ready. He'd got a gun, apparently, and carried it every night after that first meeting. He wasn't taking any chances. Smith didn't have a gun. He didn't intend to kill Blessing. He just intended to thrash him within an inch of his life. They met, accidentally, and Blessing began to argue—to justify himself. That's what the Pearson woman heard as the two of them passed her window. But Smith was cold. He knew what he was going to do; but he let Blessing talk, to see what he'd say. Finally, Blessing produced his miniature, and began to sob about it; and that was the last straw. Smith knocked it out of his hands and swung on him. And Blessing ducked and got out his gun. He didn't get a chance to use it, for Smith grabbed him

and took that away from him, too. The gun went off in the air, just as Smith got it. That was the first shot. Then there were two more.

"I'm not trying to justify Smith, exactly. Something happened to him, just then, and maybe he wasn't responsible. Maybe you think he *was*. He let Blessing have it, just as Blessing jumped for him. It was all over in a minute, and Smith was a murderer. That sort of thing happens in life, too. It isn't intended, there isn't any plan; it just happens because you're mad, and somebody has it coming to him. Something pops inside of you, and there you are. It might be you; it might be me. This time it was Smith."

Dean got the floor, then, for a minute. He had listened hard, and now he had a question to ask. "Who is Smith?" he wanted to know. "Is he—Murray?"

"No," I said, "he's the fellow the janitor saw running. I told you Murray was framed, and so he was. He came up just in time to be useful. He came up staggering, drunk; and he stopped and looked around to see what was going on. And Smith, who was pretty horrified by what he'd done, and had to get away quick, shoved the gun into Murray's hand, grabbed the miniature off the sidewalk, and ran. When Witte came up, a few minutes later—it took him longer than he thought—there was Murray standing over the body of Blessing, holding the gun, too drunk to know what was going on; wondering what it was all about. He said he was innocent, when he got his wits back, but he hadn't a leg to stand on.

"Now," I said, "that's what happened, that night, and there's only one thing for us to do, and that's acquit Murray."

They didn't say a word for a while. They couldn't. They just sat—or stood—and looked at me. Finally, Dean had an idea—another one. He stood up and aimed his finger at me.

"Russell," he said, "it's a good story, and if it's true, of course it goes without saying that you know this fellow Smith. Well, that's all right; though how you got onto the jury, I don't know. But it needs a lot more than your word to prove it. We'll free Murray—sure!—as soon as we know *you* know what you're talking about. If you're just making up a fairy tale, to get Murray off . . ."

Well, that was that. I knew again what I had to do. "All right, Dean," I said. "What would you consider was proof?"

He thought a minute. "If you could produce this fellow Smith," he said at last, "it would be something, eh, boys? But even then, Smith would have to produce the miniature, I guess, to prove that *he* was telling the truth. Yes, I guess the miniature is the only real proof. Eh, boys?"

They all agreed with him. They always agreed with everybody and with each other—with everybody except me.

"All right then," I said again, "but the question is: what about Smith? Does he have to take Murray's place? You know the truth about him. Do you want him to go to the gallows for killing Blessing? If you tell the court about Smith, he has to take *his* chance in the dock, and maybe get a jury that wouldn't understand him the way this one does. Assume that all I've told you is true, and that you're sitting in judgment on Smith. Would you free him or convict him?"

"Free him," said about four of them at once. The others hadn't thought about it; but I could see the answer in their faces. They wouldn't have hanged Smith. He had done the sort of thing every one of them knew he might have done himself. I chanced it.

"There's the miniature, boys," I said, pulling it out of my coat. "Take a look at it. I've had it in my pocket ever since that night. Then take a look at me. I'm Smith."

They had to believe it. It was true. There was the miniature, and they knew the face. It had been in all the papers. They looked at it for a while, then at me, and then out of the window. For a minute I felt the rope around my neck. But I had read their minds. They were a bit stunned, but they believed me. They were ashamed of the things they had hinted about Mrs. Blessing, that first day out. It was all right. All they wanted was for someone to say the right thing, and finally a little wrinkled fellow, who had been one of the craziest to hang Murray, said it.

"Don't be scared," he said, good-naturedly. "Nobody's going to tell on you. Come on, you fellows. This is the last ballot. Not guilty—and that goes for Russell, too!"

I can tell about it now. It was a long time ago; and I'm a long way off.

ALDOUS HUXLEY

THE GIOCONDA SMILE

Aldous Huxley, who died in 1964, was a famous member of a famous family. The story presented here, first published in his work *Mortal Coils*, illustrates the fallibility of circumstantial proof of crime. An innocent man is accused of killing his wife by the woman who is the actual murderer. The circumstantial evidence against the accused is strong, and he is indicted for murder. But the real murderer admits the truth to a doctor who suspects it. The outcome? Read the story.

“MISS SPENCE will be down directly, sir.”

“Thank you,” said Mr. Hutton, without turning round. Janet Spence’s parlourmaid was so ugly, ugly on purpose, it always seemed to him, malignantly, criminally ugly, that he could not bear to look at her more than was necessary. The door closed. Left to himself, Mr. Hutton got up and began to wander round the room, looking with meditative eyes at the familiar objects it contained.

Photographs of Greek statuary, photographs of the Roman Forum, coloured prints of Italian masterpieces, all very safe and well known. Poor, dear Janet, what a prig—what an intellectual snob! Her real taste was illustrated in that water-colour by the pavement artist, the one she had paid half a crown for (and thirty-five shillings for the frame). How often he had heard her tell the story, how often expatiated on the beauties of that skilful imitation of an oleograph! “A real Artist in the streets,” and you could hear the capital A in Artist as she spoke the words. She made you feel that part of his glory had entered into Janet Spence when she tendered him that half-crown for the copy of the oleograph. She was implying a compliment to her own taste and penetration. A genuine Old Master for half a crown. Poor, dear Janet!

Mr. Hutton came to a pause in front of a small oblong mirror. Stooping a little to get a full view of his face, he passed a white, well-manicured finger over his moustache. It was as curly, as freshly auburn as it had been twenty years ago. His hair still retained its colour, and there was no sign of baldness yet—only a certain elevation of the brow. “Shakespearean,” thought Mr. Hutton, with a smile, as he surveyed the smooth and polished expanse of his forehead.

Others abide our question, thou art free. . . . Footsteps in the sea . . . Majesty . . . Shakespeare, thou shouldst be living at this hour. No, that was Milton, wasn't it? Milton, the Lady of Christ's. There was no lady about him. He was what the women would call a manly man. That was why they liked him—for the curly auburn moustache and the discreet redolence of tobacco. Mr. Hutton smiled again: he enjoyed making fun of himself. Lady of Christ's? No, no. He was the Christ of Ladies. Very pretty, very pretty. The Christ of Ladies. Mr. Hutton wished there were somebody he could tell the joke to. Poor, dear Janet wouldn't appreciate it, alas!

He straightened himself up, parted his hair, and resumed his peregrination. Damn the Roman Forum; he hated those dreary photographs.

Suddenly he became aware that Janet Spence was in the room, standing near the door. Mr. Hutton started, as though he had been taken in some felonious act. To make these silent and spectral appearances was one of Janet Spence's peculiar talents. Perhaps she had been there all the time, and seen him looking at himself in the mirror. Impossible! But, still, it was disquieting.

"Oh, you gave me such a surprise," said Mr. Hutton, recovering his smile and advancing with outstretched hand to meet her.

Miss Spence was smiling too: her Gioconda smile, he had once called it in a moment of half-ironical flattery. Miss Spence had taken the compliment seriously, and always tried to live up to the Leonardo standard. She smiled on in silence while Mr. Hutton shook hands; that was part of the Gioconda business.

"I hope you're well," said Mr. Hutton. "You look it."

What a queer face she had! That small mouth pursed forward by the Gioconda expression into a little snout with a round hole in the middle, as though for whistling, was like a penholder seen from the front. Above the mouth a well-shaped nose, finely aquiline. Eyes large, lustrous, and dark, with the largeness, lustre, and darkness that seem to invite sties and an occasional bloodshot suffusion. They were fine eyes, but unchangingly grave. The penholder might do its Gioconda trick, but the eyes never altered in their earnestness. Above them, a pair of boldly arched, heavily pencilled black eyebrows lent a sur-

prising air of power, as of a Roman matron, to the upper portion of the face. Her hair was dark and equally Roman; Agrippina from the brows upwards.

"I thought I'd just look in on my way home," Mr. Hutton went on. "Ah, it's good to be back here—" he indicated with a wave of his hand the flowers in the vases, the sunshine and greenery beyond the windows—"it's good to be back in the country after a stuffy day of business in town."

Miss Spence, who had sat down, pointed to a chair at her side.

"No, really, I can't sit down," Mr. Hutton protested. "I must get back to see how poor Emily is. She was rather seedy this morning." He sat down, nevertheless. "It's these wretched liver chills. She's always getting them. Women—" He broke off and coughed, so as to hide the fact that he had uttered. He was about to say that women with weak digestions ought not to marry; but the remark was too cruel, and he didn't really believe it. Janet Spence, moreover, was a believer in eternal flames and spiritual attachments. "She hopes to be well enough," he added, "to see you at luncheon to-morrow. Can you come? Do?" He smiled persuasively. "It's my invitation too, you know."

She dropped her eyes, and Mr. Hutton almost thought that he detected a certain reddening of the cheek. It was a tribute; he stroked his moustache.

"I should like to come if you think Emily's really well enough to have a visitor."

"Of course. You'll do her good. You'll do us both good. In married life three is often better company than two."

"Oh, you're cynical."

Mr. Hutton always had a desire to say "Bow-wow-wow" whenever that last word was spoken. It irritated him more than any other word in the language. But instead of barking he made haste to protest.

"No, no. I'm only speaking a melancholy truth. Reality doesn't always come up to the ideal, you know. But that doesn't make me believe any the less in the ideal. Indeed, I believe in it passionately: the ideal of a matrimony between two people in perfect accord. I think it's realizable. I'm sure it is."

He paused significantly and looked at her with an arch expression. A virgin of thirty-six, but still unwithered; she had her charms. And there was something really rather enigmatic about her. Miss Spence made no reply, but continued to smile. There were times when Mr. Hutton got rather bored with the Gioconda. He stood up.

"I must really be going now. Farewell, mysterious Gioconda." The smile grew intenser, focused itself, as it were, in a narrower snout. Mr. Hutton made a Cinquecento gesture, and kissed her extended hand. It was the first time he had done such a thing; the action seemed not to be resented. "I look forward to to-morrow."

"Do you?"

For answer Mr. Hutton once more kissed her hand, then turned to go. Miss Spence accompanied him to the porch.

"Where's your car?" she asked.

"I left it at the gate of the drive."

"I'll come and see you off."

"No, no." Mr. Hutton was playful, but determined. "You must do no such thing. I simply forbid you."

"But I should like to come," Miss Spence protested, throwing a rapid Gioconda at him.

Mr. Hutton held up his hand. "No," he repeated, and then, with a gesture that was almost the blowing of a kiss, he started to run down the drive, lightly, on his toes, with long, bounding strides like a boy's. He was proud of that run; it was quite marvellously youthful. Still, he was glad the drive was no longer. At the last bend, before passing out of sight of the house, he halted and turned round. Miss Spence was still standing on the steps, smiling her smile. He waved his hand, and this time quite definitely and overtly wafted a kiss in her direction. Then, breaking once more into his magnificent canter, he rounded the last dark promontory of trees. Once out of sight of the house he let his high paces decline to a trot, and finally to a walk. He took out his handkerchief and began wiping his neck inside his collar. What fools, what fools! Had there ever been such an ass as poor, dear Janet Spence? Never, unless it was himself. Decidedly he was the more malignant fool, since he, at least, was aware of his folly and

still persisted in it. Why did he persist? Ah, the problem that was himself, the problem that was other people . . .

He had reached the gate. A large, prosperous-looking motor was standing at the side of the road.

"Home, M'Nab." The chauffeur touched his cap. "And stop at the cross-roads on the way, as usual," Mr. Hutton added, as he opened the door of the car. "Well?" he said, speaking into the obscurity that lurked within.

"Oh, Teddy Bear, what an age you've been!" It was a fresh and childish voice that spoke the words. There was the faintest hint of Cockney impurity about the vowel sounds.

Mr. Hutton bent his large form and darted into the car with the agility of an animal regaining his burrow.

"Have I?" he said, as he shut the door. The machine began to move. "You must have missed me a lot if you found the time so long." He sat back in the low seat; a cherishing warmth enveloped him.

"Teddy Bear . . ." and with a sigh of contentment a charming little head declined on to Mr. Hutton's shoulder. Ravished, he looked down sideways at the round, babyish face.

"Do you know, Doris, you look like the pictures of Louise de Kerouaille." He passed his fingers through a mass of curly hair.

"Who's Louise de Kera-whatever-it-is?" Doris spoke from remote distances.

"She was, alas! *Fuit*. We shall all be 'was' one of these days. Meanwhile . . ."

Mr. Hutton covered the babyish face with kisses. The car rushed smoothly along. M'Nab's back through the front window was stonily impassive, the back of a statue.

"Your hands," Doris whispered. "Oh, you mustn't touch me. They give me electric shocks."

Mr. Hutton adored her for the virgin imbecility of the words. How late in one's existence one makes the discovery of one's body!

"The electricity isn't in me, it's in you." He kissed her again, whispering her name several times: Doris, Doris, Doris. The scientific

appellation of the sea-mouse, he was thinking as he kissed the throat she offered him, white and extended like the throat of a victim awaiting the sacrificial knife. The sea-mouse was a sausage with iridescent fur: very peculiar. Or was Doris the sea-cucumber, which turns itself inside out in moments of alarm? He would really have to go to Naples again, just to see the aquarium. These sea creatures were fabulous, unbelievably fantastic.

"Oh, Teddy Bear!" (More zoology; but he was only a land animal. His poor little jokes!) "Teddy Bear, I'm so happy."

"So am I," said Mr. Hutton. Was it true?

"But I wish I knew if it were right. Tell me, Teddy Bear, is it right or wrong?"

"Ah, my dear, that's just what I've been wondering for the last thirty years."

"Be serious, Teddy Bear. I want to know if this is right; if it's right that I should be here with you and that we should love one another, and that it should give me electric shocks when you touch me."

"Right? Well, it's certainly good that you should have electric shocks rather than sexual repressions. Read Freud; repressions are the devil."

"Oh, you don't help me. Why aren't you ever serious? If only you knew how miserable I am sometimes, thinking it's not right. Perhaps, you know, there is a hell, and all that. I don't know what to do. Sometimes I think I ought to stop loving you."

"But could you?" asked Mr. Hutton, confident in the powers of his seduction and his moustache.

"No, Teddy Bear, you know I couldn't. But I could run away, I could hide from you, I could lock myself up and force myself not to come to you."

"Silly little thing! He tightened his embrace.

"Oh, dear. I hope it isn't wrong. And there are times when I don't care if it is."

Mr. Hutton was touched. He had a certain protective affection for this little creature. He laid his cheek against her hair and so, interlaced, they sat in silence, while the car, swaying and pitching a little as it

hastened along, seemed to draw in the white road and the dusty hedges towards it devouringly.

“Good-bye, good-bye.”

The car moved on, gathered speed, vanished round a curve, and Doris was left standing by the sign-post at the cross-roads, still dizzy and weak with the languor born of those kisses and the electrical touch of those gentle hands. She had to take a deep breath, to draw herself up deliberately, before she was strong enough to start her homeward walk. She had half a mile in which to invent the necessary lies.

Alone, Mr. Hutton suddenly found himself the prey of an appalling boredom.

Mrs. Hutton was lying on the sofa in her boudoir, playing patience. In spite of the warmth of the July evening a wood fire was burning on the hearth. A black Pomeranian, extenuated by the heat and fatigues of digestion, slept before the blaze.

“Phew! Isn’t it rather hot in here?” Mr. Hutton asked as he entered the room.

“You know I have to keep warm, dear.” The voice seemed breaking on the verge of tears. “I get so shivery.”

“I hope you’re better this evening.”

“Not much, I’m afraid.”

The conversation stagnated. Mr. Hutton stood leaning his back against the mantelpiece. He looked down at the Pomeranian lying at his feet, and with the toe of his right boot he rolled the little dog over and rubbed its white-flecked chest and belly. The creature lay in an inert ecstasy. Mrs. Hutton continued to play patience. Arrived at an *impasse*, she altered the position of one card, took back another, and went on playing. Her patiences always came out.

“Dr. Libbard thinks I ought to go to Llandrindod Wells this summer.”

“Well, go, my dear, go, most certainly.”

Mr. Hutton was thinking of the events of the afternoon: how they had driven, Doris and he, up to the hanging wood, had left the car to wait for them under the shade of the trees, and walked together out into the windless sunshine of the chalk down.

"I'm to drink the waters for my liver, and he thinks I ought to have massage and electric treatment, too."

Hat in hand, Doris had stalked four blue butterflies that were dancing together round a scabious flower with a motion that was like the flickering of blue fire. The blue fire burst and scattered into whirling sparks; she had given chase, laughing and shouting like a child.

"I'm sure it will do you good, my dear."

"I was wondering if you'd come with me, dear."

"But you know I'm going to Scotland at the end of the month."

Mrs. Hutton looked up at him entreatingly. "It's the journey," she said. "The thought of it is such a nightmare. I don't know if I can manage it. And you know I can't sleep in hotels. And then there's the luggage and all the worries. I can't go alone."

"But you won't be alone. You'll have your maid with you." He spoke impatiently. The sick woman was usurping the place of the healthy one. He was being dragged back from the memory of the sunlit down and the quick, laughing girl, back to this unhealthy, overheated room and its complaining occupant.

"I don't think I shall be able to go."

"But you must, my dear, if the doctor tells you to. And, besides, a change will do you good."

"I don't think so."

"But Libbard thinks so, and he knows what he's talking about."

"No, I can't face it. I'm too weak. I can't go alone." Mrs. Hutton pulled a handkerchief out of her black silk bag, and put it to her eyes.

"Nonsense, my dear, you must make the effort."

"I had rather be left in peace to die here." She was crying in earnest now.

"O Lord! Now do be reasonable. Listen now, please." Mrs. Hutton only sobbed more violently. "Oh, what is one to do?" He shrugged his shoulders and walked out of the room.

Mr. Hutton was aware that he had not behaved with proper patience; but he could not help it. Very early in his manhood he had discovered that not only did he not feel sympathy for the poor, the weak, the

diseased, and deformed; he actually hated them. Once, as an undergraduate, he spent three days at a mission in the East End. He had returned, filled with a profound and ineradicable disgust. Instead of pitying, he loathed the unfortunate. It was not, he knew, a very comely emotion, and he had been ashamed of it at first. In the end he had decided that it was temperamental, inevitable, and had felt no further qualms. Emily had been healthy and beautiful when he married her. He had loved her then. But now—was it his fault that she was like this?

Mr. Hutton dined alone. Food and drink left him more benevolent than he had been before dinner. To make amends for his show of exasperation he went up to his wife's room and offered to read to her. She was touched, gratefully accepted the offer, and Mr. Hutton, who was particularly proud of his accent, suggested a little light reading in French.

"French? I am so fond of French." Mrs. Hutton spoke of the language of Racine as though it were a dish of green peas.

Mr. Hutton ran down to the library and returned with a yellow volume. He began reading. The effort of pronouncing perfectly absorbed his whole attention. But how good his accent was! The fact of its goodness seemed to improve the quality of the novel he was reading.

At the end of fifteen pages an unmistakable sound aroused him. He looked up; Mrs. Hutton had gone to sleep. He sat still for a little while, looking with a dispassionate curiosity at the sleeping face. Once it had been beautiful; once long ago, the sight of it, the recollection of it, had moved him with an emotion profounder, perhaps, than any he had felt before or since. Now it was lined and cadaverous. The skin was stretched tightly over the cheek-bones, across the bridge of the sharp, bird-like nose. The closed eyes were set in profound bonerimmed sockets. The lamplight striking on the face from the side emphasized with light and shade its cavities and projections. It was the face of a dead Christ by Morales.

*Le squelette était invisible
Aux temps heureux de l'art païen.*

He shivered a little, and tiptoed out of the room.

On the following day Mrs. Hutton came down to luncheon. She had had some unpleasant palpitations during the night, but she was feeling better now. Besides, she wanted to do honour to her guest. Miss Spence listened to her complaints about Llandrindod Wells, and was loud in sympathy, lavish with advice. Whatever she said was always said with intensity. She leaned forward, aimed, so to speak, like a gun, and fired her words. Bang! the charge in her soul was ignited, the words whizzed forth at the narrow barrel of her mouth. She was a machine-gun riddling her hostess with sympathy. Mr. Hutton had undergone similar bombardments, mostly of a literary or philosophic character, bombardments of Maeterlinck, of Mrs. Besant, of Bergson, of William James. To-day the missiles were medical. She talked about insomnia, she expatiated on the virtues of harmless drugs and beneficent specialists. Under the bombardment Mrs. Hutton opened out, like a flower in the sun.

Mr. Hutton looked on in silence. The spectacle of Janet Spence evoked in him an unfailing curiosity. He was not romantic enough to imagine that every face masked an interior physiognomy of beauty or strangeness, that every woman's small talk was like a vapour hanging over mysterious gulfs. His wife, for example, and Doris; they were nothing more than what they seemed to be. But with Janet Spence it was somehow different. Here one could be sure that there was some kind of a queer face behind the Gioconda smile and the Roman eyebrows. The only question was: What exactly was there? Mr. Hutton could never quite make out.

"But perhaps you won't have to go to Llandrindod after all," Miss Spence was saying. "If you get well quickly Dr. Libbard will let you off."

"I only hope so. Indeed, I do really feel rather better to-day."

Mr. Hutton felt ashamed. How much was it his own lack of sympathy that prevented her from feeling well every day? But he comforted himself by reflecting that it was only a case of feeling, not of being better. Sympathy does not mend a diseased liver or a weak heart.

"My dear, I wouldn't eat those red currants if I were you," he said, suddenly solicitous. "You know that Libbard has banned everything with skins and pips."

"But I am so fond of them," Mrs. Hutton protested, "and I feel so well to-day."

"Don't be a tyrant," said Miss Spence, looking first at him and then at his wife. "Let the poor invalid have what she fancies; it will do her good." She laid her hand on Mrs. Hutton's arm and patted it affectionately two or three times.

"Thank you, my dear." Mrs. Hutton helped herself to the stewed currants.

"Well, don't blame me if they make you ill again."

"Do I ever blame you, dear?"

"You have nothing to blame me for," Mr. Hutton answered playfully. "I am the perfect husband."

They sat in the garden after luncheon. From the island of shade under the old cypress tree they looked out across a flat expanse of lawn, in which the parterres of flowers shone with a metallic brilliance.

Mr. Hutton took a deep breath of the warm and fragrant air. "It's good to be alive," he said.

"Just to be alive," his wife echoed, stretching one pale, knot-jointed hand into the sunlight.

A maid brought the coffee; the silver pots and the little blue cups were set on a folding table near the group of chairs.

"Oh, my medicine!" exclaimed Mrs. Hutton. "Run in and fetch it, Clara, will you? The white bottle on the sideboard."

"I'll go," said Mr. Hutton. "I've got to go and fetch a cigar in any case."

He ran in towards the house. On the threshold he turned round for an instant. The maid was walking back across the lawn. His wife was sitting up in her deck-chair, engaged in opening her white parasol. Miss Spence was bending over the table, pouring out the coffee. He passed into the cool obscurity of the house.

"Do you like sugar in your coffee?" Miss Spence inquired.

"Yes, please. Give me rather a lot. I'll drink it after my medicine to take the taste away."

Mrs. Hutton leaned back in her chair, lowering the sunshade over her eyes, so as to shut out from her vision the burning sky.

Behind her, Miss Spence was making a delicate clinking among the coffee-cups.

"I've given you three large spoonfuls. That ought to take the taste away. And here comes the medicine."

Mr. Hutton had reappeared, carrying a wine-glass, half full of a pale liquid.

"It smells delicious," he said, as he handed it to his wife.

"That's only the flavoring." She drank it off at a gulp, shuddered, and made a grimace. "Ugh, it's so nasty. Give me my coffee."

Miss Spence gave her the cup; she sipped at it. "You've made it like syrup. But it's very nice, after that atrocious medicine."

At half-past three Mrs. Hutton complained that she did not feel as well as she had done, and went indoors to lie down. Her husband would have said something about the red currants, but checked himself; the triumph of an "I told you so" was too cheaply won. Instead, he was sympathetic, and gave her his arm to the house.

"A rest will do you good," he said. "By the way, I shan't be back till after dinner."

"But why? Where are you going?"

"I promised to go to Johnson's this evening. We have to discuss the war memorial, you know."

"Oh, I wish you weren't going." Mrs. Hutton was almost in tears. "Can't you stay? I don't like being alone in the house."

"But, my dear, I promised, weeks ago." It was a bother having to lie like this. "And now I must get back and look after Miss Spence."

He kissed her on the forehead and went out again into the garden. Miss Spence received him aimed and intense.

"Your wife is dreadfully ill," she fired off at him.

"I thought she cheered up so much when you came."

"That was purely nervous, purely nervous. I was watching her closely. With a heart in that condition and her digestion wrecked—yes, wrecked—anything might happen."

"Libbard doesn't take so gloomy a view of poor Emily's health." Mr. Hutton held open the gate that led from the garden into the drive; Miss Spence's car was standing by the front door.

"Libbard is only a country doctor. You ought to see a specialist."

He could not refrain from laughing. "You have a macabre passion for specialists."

Miss Spence held up her hand in protest. "I am serious. I think poor Emily is in a very bad state. Anything might happen—at any moment."

He handed her into the car and shut the door. The chauffeur started the engine and climbed into his place, ready to drive off.

Miss Spence leaned forward and shot a Gioconda in his direction. "Remember, I expect you to come and see me again soon."

Mechanically he grinned, made a polite noise, and, as the car moved forward, waved his hand. He was happy to be alone.

A few minutes afterwards Mr. Hutton himself drove away. Doris was waiting at the cross-roads. They dined together twenty miles from home, at a roadside hotel. It was one of those bad, expensive meals which are only cooked in country hotels frequented by motorists. It revolted Mr. Hutton, but Doris enjoyed it. She always enjoyed things. Mr. Hutton ordered a not very good brand of champagne. He was wishing he had spent the evening in his library.

When they started homewards Doris was a little tipsy and extremely affectionate. It was very dark inside the car, but looking forward, past the motionless form of M'Nab, they could see a bright and narrow universe of forms and colours scooped out of the night by the electric head-lamps.

It was after eleven when Mr. Hutton reached home. Dr. Libbard met him in the hall. He was a small man with delicate hands and well-formed features that were almost feminine. His brown eyes were large and melancholy. He used to waste a great deal of time sitting at the

bedside of his patients, looking sadness through those eyes and talking in a sad, low voice about nothing in particular. His person exhaled a pleasing odour, decidedly antiseptic but at the same time suave and discreetly delicious.

"Libbard?" said Mr. Hutton in surprise. "You here? Is my wife ill?"

"We tried to fetch you earlier," the soft, melancholy voice replied. "It was thought you were at Mr. Johnson's, but they had no news of you there."

"No, I was detained. I had a breakdown," Mr. Hutton answered irritably. It was tiresome to be caught out in a lie.

"Your wife wanted to see you urgently."

"Well, I can go now." Mr. Hutton moved towards the stairs.

Dr. Libbard laid a hand on his arm. "I am afraid it's too late."

"Too late?" He began fumbling with his watch; it wouldn't come out of his pocket.

"Mrs. Hutton passed away half an hour ago."

The voice remained even in its softness, the melancholy of the eyes did not deepen. Dr. Libbard spoke of death as he would speak of a local cricket match. All things were equally vain and equally deplorable.

Mr. Hutton found himself thinking of Janet Spence's words. At any moment, at any moment. She had been extraordinarily right.

"What happened?" he asked. "What was the cause?"

Dr. Libbard explained. It was heart failure brought on by a violent attack of nausea, caused in its turn by the eating of something of an irritant nature. Red currants? Mr. Hutton suggested. Very likely. It had been too much for the heart. There was chronic valvular disease: something had collapsed under the strain. It was all over; she could not have suffered much.

"It's a pity they should have chosen the day of the Eton and Harrow match for the funeral," old General Grego was saying as he stood, his top hat in his hand, under the shadow of the lych gate, wiping his face with his handkerchief.

Mr. Hutton overheard the remark and with difficulty restrained a desire to inflict grievous bodily pain on the General. He would have liked to hit the old brute in the middle of his big red face. Monstrous great mulberry, spotted with meal! Was there no respect for the dead? Did nobody care? In theory he didn't much care; let the dead bury their dead. But here, at the graveside, he had found himself actually sobbing. Poor Emily, they had been pretty happy once. Now she was lying at the bottom of a seven-foot hole. And here was Grego complaining that he couldn't go to the Eton and Harrow match.

Mr. Hutton looked round at the groups of black figures that were drifting slowly out of the churchyard towards the fleet of cabs and motors assembled in the road outside. Against the brilliant background of the July grass and flowers and foliage, they had a horribly alien and unnatural appearance. It pleased him to think that all these people would soon be dead too.

That evening Mr. Hutton sat up late in his library reading the life of Milton. There was no particular reason why he should have chosen Milton; it was the book that first came to hand, that was all. It was after midnight when he had finished. He got up from his armchair, unbolted the French windows, and stepped out on to the little paved terrace. The night was quiet and clear. Mr. Hutton looked at the stars and at the holes between them, dropped his eyes to the dim lawns and hueless flowers of the garden, and let them wander over the farther landscape, black and grey under the moon.

He began to think with a kind of confused violence. There were the stars, there was Milton. A man can be somehow the peer of stars and night. Greatness, nobility. But is there seriously a difference between the noble and the ignoble? Milton, the stars, death, and himself, himself. The soul, the body; the higher and the lower nature. Perhaps there was something in it, after all. Milton had a god on his side and righteousness. What had he? Nothing, nothing whatever. There were only Doris's little breasts. What was the point of it all? Milton, the stars, death, and Emily in her grave, Doris and himself—always himself . . .

Oh, he was a futile and disgusting being. Everything convinced him of it. It was a solemn moment. He spoke aloud: "I will, I will." The sound of his own voice in the darkness was appalling; it seemed

to him that he had sworn that infernal oath which binds even the gods: "I will, I will." There had been New Year's Days and solemn anniversaries in the past, when he had felt the same contritions and recorded similar resolutions. They had all thinned away, these resolutions, like smoke, into nothingness. But this was a greater moment and he had pronounced a more fearful oath. In the future it was to be different. Yes, he would live by reason, he would be industrious, he would curb his appetites, he would devote his life to some good purpose. It was resolved and it would be so.

In practice he saw himself spending his mornings in agricultural pursuits, riding round with the bailiff, seeing that his land was farmed in the best modern way, silos and artificial manures and continuous cropping, and all that. The remainder of the day should be devoted to serious study. There was that book he had been intending to write for so long: *The Effect of Diseases on Civilization*.

Mr. Hutton went to bed humble and contrite, but with a sense that grace had entered into him. He slept for seven and a half hours, and woke to find the sun brilliantly shining. The emotions of the evening before had been transformed by a good night's rest into his customary cheerfulness. It was not until a good many seconds after his return to conscious life that he remembered his resolution, his Stygian oath. Milton and death seemed somehow different in the sunlight. As for the stars, they were not there. But the resolutions were good; even in the daytime he could see that. He had his horse saddled after breakfast, and rode round the farm with the bailiff. After luncheon he read Thucydides on the plague at Athens. In the evening he made a few notes on malaria in Southern Italy. While he was undressing he remembered that there was a good anecdote in Skelton's jest-book about the Sweating Sickness. He would have made a note of it if only he could have found a pencil.

On the sixth morning of his new life Mr. Hutton found among his correspondence an envelope addressed in that peculiarly vulgar handwriting which he knew to be Doris's. He opened it, and began to read. She didn't know what to say, words were so inadequate. His wife dying like that, and so suddenly—it was too terrible. Mr. Hutton sighed, but his interest revived somewhat as he read on:

Death is so frightening, I never think of it when I can help it. But when something like this happens, or when I am feeling ill or depressed, then I can't help remembering it is there so close, and I think about all the wicked things I have done and about you and me, and I wonder what will happen, and I am so frightened. I am so lonely, Teddy Bear, and so unhappy, and I don't know what to do. I can't get rid of the idea of dying, I am so wretched and helpless without you. I didn't mean to write to you; I meant to wait till you were out of mourning and could come and see me again, but I was so lonely and miserable, Teddy Bear, I had to write. I couldn't help it. Forgive me, I want you so much; I have nobody in the world but you. You are so good and gentle and understanding; there is nobody like you. I shall never forget how good and kind you have been to me, and you are so clever and know so much, I can't understand how you ever came to pay any attention to me, I am so dull and stupid, much less like me and love me, because you do love me a little, don't you, Teddy Bear?

Mr. Hutton was touched with shame and remorse. To be thanked like this, worshipped for having seduced the girl, it was too much. It had just been a piece of imbecile wantonness. Imbecile, idiotic: there was no other way to describe it. For when all was said, he had derived very little pleasure from it. Taking all things together, he had probably been more bored than amused. Once upon a time he had believed himself to be a hedonist. But to be a hedonist implies a certain process of reasoning, a deliberate choice of known pleasures, a rejection of known pains. This had been done without reason, against it. For he knew beforehand—so well, so well—that there was no interest or pleasure to be derived from these wretched affairs. And yet each time the vague itch came upon him he succumbed, involving himself once more in the old stupidity. There had been Maggie, his wife's maid, and Edith, the girl on the farm, and Mrs. Pringle, and the waitress in London, and others—there seemed to be dozens of them. It had all been so stale and boring. He knew it would be; he always knew. And yet, and yet . . . Experience doesn't teach.

Poor little Doris! He would write to her kindly, comfortingly, but he wouldn't see her again. A servant came to tell him that his horse

was saddled and waiting. He mounted and road off. That morning the old bailiff was more irritating than usual.

Five days later Doris and Mr. Hutton were sitting together on the pier at Southend; Doris, in white muslin with pink garnishings, radiated happiness; Mr. Hutton, legs outstretched and chair tilted, had pushed the panama back from his forehead, and was trying to feel like a tripper. That night, when Doris was asleep, breathing and warm by his side, he recaptured, in this moment of darkness and physical fatigue, the rather cosmic emotion which had possessed him that evening, not a fortnight ago, when he had made his great resolution. And so his solemn oath had already gone the way of so many other resolutions. Unreason had triumphed; at the first itch of desire he had given way. He was hopeless, hopeless.

For a long time he lay with closed eyes, ruminating his humiliation. The girl stirred in her sleep. Mr. Hutton turned over and looked in her direction. Enough faint light crept in between the half-drawn curtains to show her bare arm and shoulder, her neck, and the dark tangle of hair on the pillow. She was beautiful, desirable. Why did he lie there moaning over his sins? What did it matter? If he were hopeless, then so be it; he would make the best of his hopelessness. A glorious sense of irresponsibility suddenly filled him. He was free, magnificently free. In a kind of exaltation he drew the girl towards him. She woke, bewildered, almost frightened under his rough kisses.

The storm of his desire subsided into a kind of serene merriment. The whole atmosphere seemed to be quivering with enormous silent laughter.

"Could anyone love you as much as I do, Teddy Bear?" The question came faintly from distant worlds of love.

"I think I know somebody who does," Mr. Hutton replied. The submarine laughter was swelling, rising, ready to break the surface of silence and resound.

"Who? Tell me. What do you mean?" The voice had come very close; charged with suspicion, anguish, indignation, it belonged to this immediate world.

"Ah!"

"Who?"

"You'll never guess." Mr. Hutton kept up the joke until it began to grow tedious, and then pronounced the name: "Janet Spence."

Doris was incredulous. "Miss Spence of the Manor? That old woman?" It was too ridiculous. Mr. Hutton laughed too.

"But it's quite true," he said. "She adores me." Oh, the vast joke! He would go and see her as soon as he returned, see and conquer. "I believe she wants to marry me," he added.

"But you wouldn't . . . you don't intend . . ."

The air was fairly crepitating with humour. Mr. Hutton laughed aloud. "I intend to marry you," he said. It seemed to him the best joke he had ever made in his life.

When Mr. Hutton left Southend he was once more a married man. It was agreed that, for the time being, the fact should be kept secret. In the autumn they would go abroad together, and the world should be informed. Meanwhile he was to go back to his own house and Doris to hers.

The day after his return he walked over in the afternoon to see Miss Spence. She received him with the old Gioconda.

"I was expecting you to come."

"I couldn't keep away," Mr. Hutton gallantly replied.

They sat in the summer-house. It was a pleasant place—a little old stucco temple bowered among dense bushes of evergreen. Miss Spence had left her mark on it by hanging up over the seat a blue-and-white Della Robbia plaque.

"I am thinking of going to Italy this autumn," said Mr. Hutton. He felt like a ginger-beer bottle, ready to pop with bubbling humorous excitement.

"Italy. . . ." Miss Spence closed her eyes ecstatically. "I feel drawn there too."

"Why not let yourself be drawn?"

"I don't know. One somehow hasn't the energy and initiative to set out alone."

"Alone. . . ." Ah, sound of guitars and throaty singing! "Yes, travelling alone isn't much fun."

Miss Spence lay back in her chair without speaking. Her eyes were still closed. Mr. Hutton stroked his moustache. The silence prolonged itself for what seemed a very long time.

Pressed to stay to dinner, Mr. Hutton did not refuse. The fun had hardly started. The table was laid in the loggia. Through its arches they looked out on to the sloping garden, to the valley below and the farther hills. Light ebbed away; the heat and silence were oppressive. A huge cloud was mounting up the sky, and there were distant breathings of thunder. The thunder drew nearer, a wind began to blow, and the first drops of rain fell. The table was cleared. Miss Spence and Mr. Hutton sat on in the growing darkness.

Miss Spence broke a long silence by saying meditatively:

"I think everyone has a right to a certain amount of happiness, don't you?"

"Most certainly." But what was she leading up to? Nobody makes generalizations about life unless they mean to talk about themselves. Happiness: he looked back on his own life, and saw a cheerful, placid existence disturbed by no great griefs or discomforts or alarms. He had always had money and freedom; he had been able to do very much as he wanted. Yes, he supposed he had been happy, happier than most men. And now he was not merely happy; he had discovered in irresponsibility the secret of gaiety. He was about to say something about his happiness when Miss Spence went on speaking.

"People like you and me have a right to be happy some time in our lives."

"Me?" said Mr. Hutton, surprised.

"Poor Henry! Fate hasn't treated either of us very well."

"Oh, well, it might have treated me worse."

"You're being cheerful. That's brave of you. But don't think I can't see behind the mask."

Miss Spence spoke louder and louder as the rain came down more and more heavily. Periodically the thunder cut across her utterances. She talked on, shouting against the noise.

"I have understood you so well and for so long."

A flash revealed her, aimed and intent, leaning towards him. Her eyes were two profound and menacing gun-barrels. The darkness re-engulfed her.

"You were a lonely soul seeking a companion soul. I could sympathize with you in your solitude. Your marriage . . ."

The thunder cut short the sentence. Miss Spence's voice became audible once more with the words:

". . . could offer no companionship to a man of your stamp. You needed a soul mate."

A soul mate—he! A soul mate! It was incredibly fantastic. "Georgette Leblanc, the ex-soul-mate of Maurice Maeterlinck." He had seen that in the paper a few days ago. So it was thus that Janet Spence had painted him in her imagination—as a soul-mate. And for Doris he was a picture of goodness and the cleverest man in the world. And actually, really, he was what? Who knows?

"My heart went out to you. I could understand; I was lonely, too." Miss Spence laid her hand on his knee. "You were so patient." Another flash. She was still aimed, dangerously. "You never complained. But I could guess, I could guess."

"How wonderful of you!" So he was an *ame incomprise*. "Only a woman's intuition . . ."

The thunder crashed and rumbled, died away, and only the sound of the rain was left. The thunder was his laughter, magnified, externalized. Flash and crash, there it was again, right on top of them.

"Don't you feel that you have within you something that is akin to this storm?" He could imagine her leaning forward as she uttered the words. "Passion makes one the equal of the elements."

What was his gambit now? Why, obviously, he should have said, "Yes," and ventured on some unequivocal gesture. But Mr. Hutton suddenly took fright. The ginger beer in him had gone flat. The woman was serious—terribly serious. He was appalled.

Passion? "No," he desperately answered. "I am without passion."

But his remark was either unheard or unheeded, for Miss Spence went on with a growing exaltation, speaking so rapidly, however, and in such a burning intimate whisper that Mr. Hutton found it very

difficult to distinguish what she was saying. She was telling him, as far as he could make out, the story of her life. The lightning was less frequent now, and there were long intervals of darkness. But at each flash he saw her still aiming towards him, still yearning forward with a terrifying intensity. Darkness, the rain, and then flash! her face was there, close at hand. A pale mask, greenish white; the large eyes, the narrow barrel of the mouth, the heavy eyebrows. Agrippina, or wasn't it rather—yes, wasn't it rather George Robey?

He began devising absurd plans for escaping. He might suddenly jump up, pretending he had seen a burglar—Stop thief! stop thief!—and dash off into the night in pursuit. Or should he say that he felt faint, a heart attack, or that he had seen a ghost—Emily's ghost—in the garden? Absorbed in his childish plotting, he had ceased to pay any attention to Miss Spence's words. The spasmodic clutching of her hand recalled his thoughts.

"I honoured you for that, Henry," she was saying.

Honoured him for what?

"Marriage is a sacred tie, and your respect for it, even when the marriage was, as it was in your case, an unhappy one, made me respect you and admire you, and—shall I dare say the word?——"

Oh, the burglar, the ghost in the garden! But it was too late.

". . . yes, love you, Henry, all the more. But we're free now, Henry."

Free? There was a movement in the dark, and she was kneeling on the floor by his chair.

"Oh, Henry, Henry, I have been unhappy too."

Her arms embraced him, and by the shaking of her body he could feel that she was sobbing. She might have been a suppliant crying for mercy.

"You mustn't, Janet," he protested. Those tears were terrible, terrible. "Not now, not now! You must be calm; you must go to bed." He patted her shoulder, then got up, disengaging himself from her embrace. He left her still crouching on the floor beside the chair on which he had been sitting.

Groping his way into the hall, and without waiting to look for his hat, he went out of the house, taking infinite pains to close the front door noiselessly behind him. The clouds had blown over, and the moon was shining from a clear sky. There were puddles all along the road, and a noise of running water rose from the gutters and ditches. Mr. Hutton splashed along, not caring if he got wet.

How heartrendingly she had sobbed! With the emotions of pity and remorse that the recollection evoked in him there was a certain resentment: why couldn't she have played the game that he was playing, the heartless, amusing game? Yes, but he had known all the time that she wouldn't, she couldn't, play that game; he had known and persisted.

What had she said about passion and the elements? Something absurdly stale, but true, true. There she was, a cloud black-bosomed and charged with thunder, and he, like some absurd little Benjamin Franklin, had sent up a kite into the heart of the menace. Now he was complaining that his toy had drawn the lightning.

She was probably still kneeling by that chair in the loggia, crying.

But why hadn't he been able to keep up the game? Why had his irresponsibility deserted him, leaving him suddenly sober in a cold world? There were no answers to any of his questions. One idea burned steady and luminous in his mind, the idea of flight. He must get away at once.

"What are you thinking about, Teddy Bear?"

"Nothing."

There was a silence. Mr. Hutton remained motionless, his elbows on the parapet of the terrace, his chin in his hands, looking down over Florence. He had taken a villa on one of the hilltops to the south of the city. From a little raised terrace at the end of the garden one looked down a long fertile valley on to the town and beyond it to the bleak mass of Monte Morello and, eastward of it, to the peopled hill of Fiesole, dotted with white houses. Everything was clear and luminous in the September sunshine.

"Are you worried about anything?"

"No, thank you."

"Tell me, Teddy Bear."

"But, my dear, there's nothing to tell." Mr. Hutton turned round, smiled, and patted the girl's hand. "I think you'd better go in and have your siesta. It's too hot for you here."

"Very well, Teddy Bear. Are you coming too?"

"When I've finished my cigar."

"All right. But do hurry up and finish it, Teddy Bear." Slowly, reluctantly, she descended the steps of the terrace and walked towards the house.

Mr. Hutton continued his contemplation of Florence. He had need to be alone. It was good sometimes to escape from Doris and the restless solicitude of her passion. He had never known the pains of loving hopelessly, but he was experiencing now the pains of being loved. These last weeks had been a period of growing discomfort. Doris was always with him, like an obsession, like a guilty conscience. Yes, it was good to be alone.

He pulled an envelope out of his pocket and opened it, not without reluctance. He hated letters; they always contained something unpleasant, nowadays, since his second marriage. This was from his sister. He began skimming through the insulting home-truths of which it was composed. The words "indecent haste," "social suicide," "scarcely cold in her grave," "person of the lower classes," all occurred. They were inevitable now in any communication from a well-meaning and right-thinking relative. Impatient, he was about to tear the stupid letter to pieces when his eye fell on a sentence at the bottom of the third page. His heart beat with uncomfortable violence as he read it. It was too monstrous! Janet Spence was going about telling everyone that he had poisoned his wife in order to marry Doris. What damnable malice! Ordinarily a man of the suavest temper, Mr. Hutton found himself trembling with rage. He took the childish satisfaction of calling names—he cursed the woman.

Then suddenly he saw the ridiculous side of the situation. The notion that he should have murdered anyone in order to marry Doris! If they only knew how miserably bored he was. Poor, dear Janet! She had tried to be malicious; she had only succeeded in being stupid.

A sound of footsteps aroused him; he looked round. In the garden below the little terrace the servant girl of the house was picking fruit. A Neapolitan, strayed somehow as far north as Florence, she was a specimen of the classical type, a little debased. Her profile might have been taken from a Sicilian coin of a bad period. Her features, carved floridly in the grand tradition, expressed an almost perfect stupidity. Her mouth was the most beautiful thing about her; the calligraphic hand of nature had richly curved it into an expression of mulish bad temper. Under her hideous black clothes, Mr. Hutton divined a powerful body, firm and massive. He had looked at her before with a vague interest and curiosity. To-day the curiosity defined and focused itself into a desire. An idyll of Theocritus. Here was the woman; he, alas, was not precisely like a goatherd on the volcanic hills. He called to her.

“Armida!”

The smile with which she answered him was so provocative, attested so easy a virtue, that Mr. Hutton took fright. He was on the brink once more—on the brink. He must draw back, oh! quickly, quickly, before it was too late. The girl continued to look up at him.

“*Ha chiamato?*” she asked at last.

Stupidity or reason? Oh, there was no choice now. It was imbecility every time.

“*Scendo,*” he called back to her. Twelve steps led from the garden to the terrace. Mr. Hutton counted them. Down, down, down, down. . . . He saw a vision of himself descending from one circle of the inferno to the next, from a darkness full of wind and hail to an abyss of stinking mud.

For a good many days the Hutton case had a place on the front page of every newspaper. There had been no more popular murder trial since George Smith had temporarily eclipsed the European War by drowning in a warm bath his seventh bride. The public imagination was stirred by this tale of a murder brought to light months after the date of the crime. Here, it was felt, was one of those incidents in human life, so notable because they are so rare, which do definitely justify the ways of God to man. A wicked man had been moved by an illicit passion to kill his wife. For months he had lived in sin and fancied security, only to be dashed at last more horribly into the pit

he had prepared for himself. "Murder will out," and here was a case of it. The readers of the newspapers were in a position to follow every movement of the hand of God. There had been vague, but persistent rumours in the neighbourhood; the police had taken action at last. Then came the exhumation order, the post-mortem examination, the inquest, the evidence of the experts, the verdict of the coroner's jury, the trial, the condemnation. For once Providence had done its duty, obviously, grossly, didactically, as in a melodrama. The newspapers were right in making of the case the staple intellectual food of a whole season.

Mr. Hutton's first emotion when he was summoned from Italy to give evidence at the inquest was one of indignation. It was a monstrous, a scandalous thing that the police should take such idle, malicious gossip seriously. When the inquest was over he would bring an action for malicious prosecution against the Chief Constable; he would sue the Spence woman for slander.

The inquest was opened; the astonishing evidence unrolled itself. The experts had examined the body, and had found traces of arsenic; they were of the opinion that the late Mrs. Hutton had died of arsenic poisoning.

Arsenic poisoning. . . . Emily had died of arsenic poisoning? After that, Mr. Hutton learned with surprise that there was enough arsenicated insecticide in his green houses to poison an army.

It was now, quite suddenly, that he saw it: there was a case against him. Fascinated, he watched it growing, growing, like some monstrous tropical plant. It was enveloping him, surrounding him; he was lost in a tangled forest.

When was the poison administered? The experts agreed that it must have been swallowed eight or nine hours before death. About lunch-time? Yes, about lunch-time. Clara, the parlour-maid, was called. Mrs. Hutton, she remembered, had asked her to go and fetch her medicine. Mr. Hutton had volunteered to go instead; he had gone alone. Miss Spence—ah, the memory of the storm, the white face, the horror of it all!—Miss Spence confirmed Clara's statement, and added that Mr. Hutton had come back with the medicine already poured out in a wine-glass, not in the bottle.

Mr. Hutton's indignation evaporated. He was dismayed, frightened. It was all too fantastic to be taken seriously, and yet this nightmare was a fact, it was actually happening.

M'Nab had seen them kissing, often. He had taken them for a drive on the day of Mrs. Hutton's death. He could see them reflected in the windscreen, sometimes out of the tail of his eye.

The inquest was adjourned. That evening Doris went to bed with a headache. When he went to her room after dinner, Mr. Hutton found her crying.

"What's the matter?" He sat down on the edge of her bed and began to stroke her hair. For a long time she did not answer, and he went on stroking her hair mechanically, almost unconsciously; sometimes, even, he bent down and kissed her bare shoulder. He had his own affairs, however, to think about. What had happened? How was it that the stupid gossip had actually come true? Emily had died of arsenic poisoning. It was absurd, impossible. The order of things had been broken, and he was at the mercy of an irresponsibility. What had happened, what was going to happen? He was interrupted in the midst of his thoughts.

"It's my fault, it's my fault!" Doris suddenly sobbed out. "I shouldn't have loved you; I oughtn't to have let you love me. Why was I ever born?"

Mr. Hutton didn't say anything, but looked down in silence at the abject figure of misery lying on the bed.

"If they do anything to you I shall kill myself."

She sat up, held him for a moment at arm's length, and looked at him with a kind of violence, as though she were never to see him again.

"I love you, I love you, I love you." She drew him, inert and passive, towards her, clasped him, pressed herself against him. "I didn't know you loved me as much as that, Teddy Bear. But why did you do it, why did you do it?"

Mr. Hutton undid her clasping arms and got up. His face became very red. "You seem to take it for granted that I murdered my wife," he said. "It's really too grotesque. What do you all take me for? A cinema hero?" He had begun to lose his temper. All the exaspera-

tion, all the fear and bewilderment of the day, was transformed into a violent anger against her. "It's all such damned stupidity. Haven't you any conception of a civilized man's mentality? Do I look the sort of man who'd go about slaughtering people? I suppose you imagined I was so insanely in love with you that I could commit any folly. When will you women understand that one isn't insanely in love? All one asks for is a quiet life, which you won't allow one to have. I don't know what the devil ever induced me to marry you. It was all a damned stupid, practical joke. And now you go about saying I'm a murderer. I won't stand it."

Mr. Hutton stamped towards the door. He had said horrible things, he knew, odious things that he ought speedily to unsay. But he wouldn't. He closed the door behind him.

"Teddy Bear!" He turned the handle; the latch clicked into place. "Teddy Bear!" The voice that came to him through the closed door was agonized. Should he go back? He ought to go back. He touched the handle, then withdrew his fingers and quickly walked away. When he was half-way down the stairs he halted. She might try to do something silly—throw herself out of the window or God knows what! He listened attentively; there was no sound. But he pictured her very clearly, tiptoeing across the room, lifting the sash as high as it would go, leaning out into the cold night air. It was raining a little. Under the window lay the paved terrace. How far below? Twenty-five or thirty feet? Once, when he was walking along Piccadilly, a dog had jumped out of a third-storey window of the Ritz. He had seen it fall; he had heard it strike the pavement. Should he go back? He was damned if he would; he hated her.

He sat for a long time in the library. What had happened? What was happening? He turned the question over and over in his mind and could find no answer. Suppose the nightmare dreamed itself out to its horrible conclusion. Death was waiting for him. His eyes filled with tears; he wanted so passionately to live. "Just to be alive." Poor Emily had wished it too, he remembered: "Just to be alive." There were still so many places in this astonishing world unvisited, so many queer delightful people still unknown, so many lovely women never so much as seen. The huge white oxen would still be dragging their wains along the Tuscan roads, the cypresses would still go up, straight

as pillars, to the blue heavens; but he would not be there to see them. And the sweet southern wines—Tears of Christ and Blood of Judas—others would drink them, not he. Others would walk down the obscure and narrow lanes between the bookshelves in the London Library, sniffing the dusty perfume of good literature, peering at strange titles, discovering unknown names, exploring the fringes of vast domains of knowledge. He would be lying in a hole in the ground. And why, why? Confusedly he felt that some extraordinary kind of justice was being done. In the past he had been wanton and imbecile and irresponsible. Now Fate was playing as wantonly, as irresponsibly, with him. It was tit for tat, and God existed after all.

He felt that he would like to pray. Forty years ago he used to kneel by his bed every evening. The nightly formula of his childhood came to him almost unsought from some long unopened chamber of the memory. "God bless Father and Mother, Tom and Cissie and the Baby, Mademoiselle and Nurse, and everyone that I love, and make me a good boy. Amen." They were all dead now, all except Cissie.

His mind seemed to soften and dissolve; a great calm descended upon his spirit. He went upstairs to ask Doris's forgiveness. He found her lying on the couch at the foot of the bed. On the floor beside her stood a blue bottle of liniment, marked "Not to be taken"; she seemed to have drunk about half of it.

"You didn't love me," was all she said when she opened her eyes to find him bending over her.

Dr. Libbard arrived in time to prevent any very serious consequences. "You mustn't do this again," he said while Mr. Hutton was out of the room.

"What's to prevent me?" she asked defiantly.

Dr. Libbard looked at her with his large, sad eyes. "There's nothing to prevent you," he said. "Only yourself and your baby. Isn't it rather bad luck on your baby, not allowing it to come into the world because you want to go out of it?"

Doris was silent for a time. "All right," she whispered. "I won't."

Mr. Hutton sat by her bedside for the rest of the night. He felt himself now to be indeed a murderer. For a time he persuaded himself

that he loved this pitiable child. Dozing in his chair, he woke up, stiff and cold, to find himself drained dry, as it were, of every emotion. He had become nothing but a tired and suffering carcass. At six o'clock he undressed and went to bed for a couple of hours' sleep. In the course of the same afternoon the coroner's jury brought in a verdict of "Wilful Murder," and Mr. Hutton was committed for trial.

Miss Spence was not at all well. She had found her public appearances in the witness-box very trying, and when it was all over she had something that was very nearly a breakdown. She slept badly, and suffered from nervous indigestion. Dr. Libbard used to call every other day. She talked to him a great deal, mostly about the Hutton case. Her moral indignation was always on the boil. Wasn't it appalling to think that one had had a murderer in one's house? Wasn't it extraordinary that one could have been for so long mistaken about the man's character? (But she had had an inkling from the first.) And then the girl he had gone off with—so low class, so little better than a prostitute. The news that the second Mrs. Hutton was expecting a baby, the posthumous child of a condemned and executed criminal, revolted her; the thing was shocking, an obscenity. Dr. Libbard answered her gently and vaguely, and prescribed bromide.

One morning he interrupted her in the midst of her customary tirade. "By the way," he said in his soft, melancholy voice, "I suppose it was really you who poisoned Mrs. Hutton."

Miss Spence stared at him for two or three seconds with enormous eyes, and then quietly said, "Yes." After that she started to cry.

"In the coffee, I suppose."

She seemed to nod assent. Dr. Libbard took out his fountain-pen, and in his neat, meticulous calligraphy wrote out a prescription for a sleeping-draught.

HENRY SLESAR

BEGGARS CAN BE CHOOSERS

This humorous story by a contemporary American writer tells of the ruse employed by a tax investigator in eliciting incriminating statements from his former schoolmate.

STANLEY TOWERS put a six-inch gash in the felt of his new billiard table two days after its arrival; he wasn't fit to live with until the rent was repaired. The billiard room, his latest addition to his multi-level house, was his pride and joy. He had been something of an expert in college; but time, lack of practice, and an obtrusive paunch had ruined his game.

He was hard at it on Saturday afternoon when Selena entered timidly and murmured something about the kitchen. He growled at the maid, instructing her to take up the problem with his wife. But Mrs. Towers, it seemed, was on still another shopping expedition in the city, and all domestic problems were his to settle.

"Well, what is it?" Stanley said.

"It's a man, sir, at the back door. He wants odd jobs or something."

"Tell him to go away. You let one tramp in, they put the mark on you for all the other bums."

"He looks decent enough, Mr. Towers. And I was thinking about that wood you wanted cut—"

Stanley missed a simple cushion shot, and cursed. "All right," he grumbled. "Take him to the shed and show him what has to be done. Tell him he can have a meal and three dollars."

"Yes, sir."

The interruption decided him. Stanley replaced the cue stick, and turned off the overhanging light. Then he walked into the living room, picked up a copy of a business weekly, and began searching for items concerning his own field. There were none that interested him.

He looked at his watch, and saw that he had half an hour to go for his next cigar allotment. He pushed the remote control switch of his television set and watched twenty minutes of old movies and cold remedy commercials. Then he decided he was hungry, and went to the kitchen.

The tramp was at the kitchen table, matted head low over a plate of stew. Stanley had forgotten about him in the interval, and he stood in the kitchen doorway and looked him over with mild curiosity. He wore a grease-spotted Army field jacket, speckled with scraps of wood from his chore. He wasn't aware of Stanley's presence for a moment, but then he glanced up and met his eyes.

"S'all right," Stanley said. "Don't mind me."

The tramp stared at him blankly, dabbed a paper napkin on his unshaven cheeks, and continued to eat a little less wolfishly than before. He was about Stanley's age, but thin, rangy, a pack rat.

Stanley walked into the room and looked at his watch. Cigar time. He plucked one from the pocket of his dressing gown, crackled off the wrapper, and lit up.

"Say, didn't I see you around town?" he said.

"No," the tramp muttered. "Just passing through."

"Funny. I could have sworn—"

The head came up from the stew; the tramp's eyes met his again. Recognition came to Stanley in a shock wave.

"Dave Sumner!" he cried. "For the love of Mike! *Dave!*"

The spoon froze in mid-air. The tramp's face went baffled, surprised, injured as if slapped by the shouted words.

"How'd you know?" he rasped. "How'd you know my name?"

"For Pete's sake, don't you know me? Don't you recognize me? I'm Stan Towers." There was no understanding in the thin face. "*Towers*," Stanley said exasperatedly. "Washington and Lee. Class of '39. Don't you remember?"

"Towers," the tramp said softly. "Yeah, sure. I remember you . . ."

Stanley laughed. He turned away, rubbing his pudgy chin until he had control of his facial muscles.

"Well, I'll be damned," he said. "Sure is funny meeting you again, Dave, like this, I mean. I don't want to hurt your feelings, but—"

"You don't have to worry about that," the tramp said slowly. "Nothing hurts my feelings. I'll be getting along now, wood's all cut, thanks for the food—"

"Now wait a minute! We haven't even—I mean, don't you want to talk a while?"

"Nothing to talk about."

"Listen, I know it's a long time." Stanley went to the table and sat down. "What the hell happened to you, Dave? Of all people. I mean—you were tops. You were the one they picked Most Likely to Succeed—"

"You don't have to remind me."

"Don't get sore. You can't blame me for being curious—"

"I don't blame you," the tramp said. "You like hard luck stories? I could give you an earful. But you got better things to do."

"No, I want to hear it, honest. Here," Stanley said, eagerly. "Have a cigar? How about some coffee?"

"Sure," Dave Sumner said.

He drank the coffee down first, greedily. Then he lit the cigar, exhaled luxuriously, and said:

"I don't know what happened myself, that's the God's honest truth. I did okay when I graduated—you remember, I was heading for that diplomatic post, high-level stuff, big shots pulling for me in Washington." He sneered. "Only then I found out what the job paid, and I lost interest. Took a place with a brokerage house, friend of my old man's. Ended up marrying his daughter. We didn't get along, and I dumped her. Or maybe it was the other way around, I don't even remember. I was paying alimony for six years, blood money, right out of my veins, until she hooked some other sucker. Then I started drinking. After that, it was one big sliding pond . . ."

Sumner bit hard on the cigar, and the ash dropped to the kitchen floor. He looked apologetic, but Stanley didn't notice. Stanley's chest was heaving.

"I just can't believe it," he said. "You of all people. And me—" He chuckled. "You remember me, Dave, how I was in school? I never could get that book stuff through my skull, not like you could." He crossed his leg, hugging the soft leather slipper on his foot. "All I could ever do was shoot billiards, remember? Now I got my own billiard room. That's something, huh?"

"You did all right," Summer said, looking at the ash soiling the clean tiles.

"Yeah, I did all right," Stanley said expansively. "You remember that little machine shop my old man had? It was a joke on wheels, remember? Well, I took that little place—" he shifted the cigar around in his mouth—"I took that little nothing and made it big. Package machinery, that's my line. You make it, we wrap it. Great business, Dave, big overhead, but great business."

"Congratulations," Sumner said ironically.

"I did fine," Stanley said. "I made a bundle, Dave, I don't mind telling you. It wasn't easy, but I did it."

"I wish I knew the secret," Sumner said. "I never learned that trick. I never could put two bucks close enough to get 'em warm. I tried to save, put together a stake, but something always happened. And then the taxes—"

"That's where I shine, buddy," Stanley said happily. "That's the real lesson to learn, if you're in business. You got to know the angles. You got to learn how to keep what you make. I figured out more sweet dodges than you can shake a stick at. I make half my deals in cash and it never gets on the books. My customers get a ten percent discount, and I get the tax benefits. You don't learn those things in school, Dave. Maybe that's the difference between you and me. Hey!" Stanley said, clapping his hands. "I wish you could meet my wife, Dave. You ever go to the—no, I guess you don't see many shows." He rubbed his paunch affectionately. "My wife is a Broadway Actress," he said.

Sumner stood up. "I better get going . . ."

"Wait a minute, Dave, I can't have you going off this way."

Stanley reached into his hip pocket for his wallet. He unfolded the smooth pigskin and dipped in for a bill; on second thought, he made it two. They were both twenties.

"Take this," he said. "It's not a loan, it's a present."

"The maid said three bucks—"

"Never mind what the maid said, Dave. I want you to have it. Just for old time's sake, Dave, please, huh?"

Sumner hesitated, then took the bills and stuffed them hurriedly into his pocket. He seemed incapable of saying anything else. He turned and went to the screen door of the kitchen. Stanley looked after him, the cigar bobbing in his mouth.

When Dierdre returned from her shopping trip, smelling of martinis, she found her husband in the living room, pawing over the tattered remnants of his college yearbook.

"What's all this?" she said. "Getting nostalgic?"

Stanley laughed. "Here he is," he chortled. "Look at him, look. Dave Sumner, voted Most Likely to Succeed."

"Nice looking," Dierdre said. "Where are you? Never mind," she frowned, spotting the moon-face. "I'd know that kisser anywhere. What'd they say about you?"

Stanley gritted his teeth. "Pool Shark," he said. Then he grinned, and pulled her towards him. "Wait'll I tell you what happened," he said.

It was six months before Stanley saw Dave Sumner again. On November 6th, he received a Summons to appear at the offices of the Treasury Department to answer questions about an alleged income tax fraud. He was worried, but prepared. Then he discovered that the government's preparations were even better than his. There was a record of testimony from his company's customers that couldn't be explained away. A week later, the Federal Grand Jury arraigned him for trial.

It was at the trial that he saw Dave walk into the courtroom and take his place at the prosecutor's table. Dave was still tall, lanky, and self-possessed. But he looked different with his hair combed and his face shaved. He wore a handsomely-tailored suit. The same Dave, but different.

Stanley turned to his lawyer.

He said, "Who *is* he?"

"It's too bad you didn't know," the lawyer said sourly. "He's the most *successful* Treasury agent in the department."

SIR ALAN HERBERT

**MARROWFAT v. MARROWFAT:
IS MARRIAGE LAWFUL?**

This humorous treatment of the English law of divorce is a parody that is paradoxical in that its author has looked more soberly at divorce legislation, and has actively sought its modernization in his role as a Member of Parliament.

THE PRESIDENT of the Probate, Divorce, and Admiralty Division gave judgment in this action to-day. He said:

The petitioner, Mr. Andrew Marrowfat, is praying for a restitution of conjugal rights, his wife Gladys having deserted, or rather left, him (for it is a subtle distinction of the English that, while a husband who departs abruptly 'deserts' his wife, a wife in similar circumstances 'leaves' him). The facts are clear, but Sir Humphrey Codd, for the respondent, has advanced and indefatigably argued a novel point of law. A cynical writer has somewhere remarked that human marriage is in the nature of a lottery, and Sir Humphrey now suggests that this observation has some significance in law. The transactions governed by the Gaming and Lotteries Acts are of various kinds. They may be wholly unlawful, such as lotteries, dicing, or snakes-and-ladders (played for money); or they may be not illegal (such as wagers on horse-races arranged with credit bookmakers over His Majesty's telephones), but so little loved by the law that the law will not assist the parties to adjust any difficulty or disagreement which may arise.

This department of the law is a labyrinth of which Parliament and the Courts may well be proud; and in the days when it was still my duty to know and study the law it gave me as much trouble as the law of libel and slander. It is now, however, the duty of counsel to ascertain and inform me of the condition of the law. And Sir Humphrey tells me that the common characteristic of every class of gaming transaction is this—that a person makes a sacrifice in the hope of receiving a benefit, but the reception of this benefit depends upon the operation of chance and not upon the exercise of his own skill and judgment. Sir Humphrey says that this was exactly the character of the contract of marriage

entered into by the petitioner, and that the Court should no more assist him to enforce that contract than it will assist a person who bets on horse-races to recover his losses, or even his winnings.

Now, in what circumstances was the contract made? The evidence is that in 1925 the petitioner was travelling as passenger in an ocean-going steamship, the *Orchid*, between Australia and Colombo; that he met the respondent (then Gladys Willows) for the first time on the evening of the First-class Fancy Dress Ball, when he drew her (by lot, it appears) as his partner for dinner. The respondent was dressed as a Columbine and the petitioner as an Oriental prince. After dinner they danced, and after dancing they proceeded on to the upper or boat deck to seek some relief from the tropical heat of the evening. On the boat deck the unexpected spectacle of the Southern Cross and other constellations excited in the petitioner a warm affection for the respondent, and he was moved to such protestations and, it appears, caresses as are commonly the preliminaries of a matrimonial entanglement. In fact an offer of marriage was made and accepted, a few days later, in a four-wheeled cab at Colombo.

Now, Sir Humphrey says that the petitioner throughout was governed by chance and not by judgment or selective skill. Chance embarked the two parties in the same steamship, chance threw them together at the fancy-dress dinner, and chance directed that at that meeting the respondent should be dressed in the fascinating costume of a Columbine, which she never wore before or after. It is common ground that she is not a good wife; but never, says Sir Humphrey, between that first meeting and the making of the contract did the petitioner have an opportunity to estimate by reason and discretion whether she was likely to be a good wife or not, for those attributes which are most in evidence and most agreeable in ocean-going steamships are not the same as the attributes of a good wife in the home. The petitioner therefore sacrificed or staked his liberty and his fortune without knowing and without the means of knowing what return, if any, he would receive. He selected his wife as many citizens select a racehorse, with no stronger reason for believing it to be the fastest runner than that it has an attractive name or elegant tail. Such is Sir Humphrey's argument, and in my judgment it is well founded. I am satisfied that this contract was in the nature of a gaming or gambling transaction, and

therefore the petitioner is not entitled to the assistance of this Court, and his suit is dismissed.

So much for this case. But in the public interest I am bound to ask myself whether this decision has not a wider ambit than the particular affairs of Mr. and Mrs. Marrowfat. Can it be said that any matrimonial arrangement is different, in essence, from theirs? I spoke just now of racehorses, which are a common subject of wagers. But if one may accept the evidence of numerous newspaper placards and headlines, there are men who are able with almost infallible accuracy to predict the future behaviour of racehorses in given circumstances. Indeed, so confident and successful are many of these prophets that the element of chance seems to be wholly removed, and it becomes matter for argument whether the transactions of those who act upon their information ought properly to be classed as wagers or as lawful investments depending upon skill; and I hope that at some future date I may be called upon to determine some delicate dispute of that kind.

But can the same be said of him who selects from the very numerous women in these islands some particular female to be the partner of his life? The prophet of the racecourse has in nearly every case definite material on which to found his predictions: such-and-such a foal has run faster than such-and-such a filly over such-and-such a distance, in wet weather or in dry weather, with a cough, with glanders, with enthusiasm, and so forth; and therefore it may be expected to do this, that, or the other thing in the same or in some other circumstances. But the case of the prospective husband is *ex hypothesi* completely opposite. He is backing a horse which has never run before, or, if his fancy be a widow, has never run over the same course in the same company. The form of a racehorse is public property, but the form of a bride is of necessity concealed. (*Laughter*) Have I been indelicate?

Sir Humphrey: No, my Lord.

The President: Lord Mildew said in *Simpson v. Archdeacon Dunn* (1873) 2 Q.B., at page 514: 'The critical period in matrimony is breakfast-time.' But for too many couples the first breakfast which they take together is the wedding-breakfast. And how many husbands ascertain before marriage the opinions of the beloved on reading in bed, on early rising or late retiring? It was argued in the case just decided

that a man of average judgment should be able to make satisfactory deductions from general conduct, but how is a man to deduce from the conduct of an unmarried woman at lunch-time the behaviour of the same woman, married, at the morning meal? It is a common-place of literature that no one can predict the conduct of a woman. Women complain, in moments of dissatisfaction, that all men are alike, but men complain with equal indignation that no two women are the same, and that no woman is the same for many days or even minutes together. It follows that no experience, however extensive, is a certain guide, and no man's judgment, however profound, is in this department valuable. In all matrimonial transactions, therefore, the element of skill is negligible and the element of chance predominates. This brings all marriages into the category of gaming (see *Wagg v. The Chief Constable of Ely*), and therefore I hold that the Court cannot according to law assist or relieve the victims of these arrangements, whether by way of restitution, separation, or divorce. Therefore it will be idle for married parties to bring their grievances before us, and, in short, this Court will never sit again.

It is not without a pang that I thus pronounce the death-sentence of Divorce, which has meant so much to so many in this Court. To those learned counsel who have made a good thing out of it I offer my sincere condolences, and particularly to Sir Humphrey Codd, who by his own argument has destroyed his own livelihood. We shall all have to do the best we can with the limited and tedious litigation which arises from Probate and Admiralty; but any persons who want a divorce will be compelled in future to divorce themselves.

The Court adjourned, for good.

PETER USTINOV

**THERE ARE 43,200 SECONDS
IN A DAY**

Peter Ustinov is a multitalented genius who is a successful actor and comedian as well as an ingenious creative artist. One of his achievements is a series of short stories entitled *Add A Dash Of Pity*. The piece selected from this book is an utterly fascinating description of a perfectly naïve man, a completely innocent witness in a homicide case, who slips over the brink of insanity under the impact of searching testimonial examination at trial.

EDWIN APPLECOTE used to go to the zoo, not to see the lions, but to see the rabbits. Nature he considered marvelous, because every facet of man, every temperament, was reflected in it. The controller of his department at the British Broadcasting Corporation was a lion by nature, a red-bearded Scot with a slow but diabolical temper, forever wrapped in hairy tweeds. Miss Butler, the producer of his program, was a bit of a horse, even more of a gnu, that South African animal with a vast, horny nose and tiny hangover eyes. Mustn't be cruel to Miss Butler, though. She might not be a thing of beauty, but she had a beautiful spirit. Miss Mowberry, who ran the section devoted to music and movement for the under fours, was a hen. When she performed her callisthenics on a toe she imagined to be both light and fantastic, she bore a terrible resemblance to a hen rushing in panic from under the wheels of an approaching car. Miss Alsop, the lyric soprano, was giraffe. Her neck was so long that you could practically follow the notes on the way from the diaphragm into the open air. And he, Edwin Applecote, the high tenor, was a rabbit.

His mother had been an old maid by inclination, and his father a confirmed bachelor. They had married late in life, and it had been a union of two habitual wallflowers. Edwin always blushed at the thought of the process which had given him life, since his parents had always seemed to him far too nice to forget themselves in such an intensely personal way. It only happened once, however. He was an only child.

He had been very close to his mother, but then he had been very close to his father also, since his parents had resembled each other in the most remarkable way, and there was nothing left for him but to

resemble them both. Family life had been harmonious, with never an angry word exchanged. Breakfast had been taken at 8:00, lunch at 1:00 sharp, tea at 4:30, supper at 7:45. Mr. Applecote had worked as an assistant in a draper's shop all his life with no thought of promotion. Although a devout man, neither God nor even the King were the figures who crowned his imagination, but Mr. Perry, the owner of the shop he worked in. Mr. Perry this, and Mr. Perry that, dominated every conversation, and Mrs. Applecote was tactful enough to ask "What did Mr. Perry say today?" when she caught her husband daydreaming for a moment.

Even in death his parents had been decent and undramatic, each dying during sleep, the expressions on their faces untroubled by pain, doubt, or even experience.

Edwin had had an average education, and had culled average marks. He hated games, but was too timid to admit it, and so threw himself into them with touching abandon, his games master describing him as a "tryer." The Army discharged him after six months for anemia, and he had found a job near the end of the war, while the competition was negligible, which both suited his temperament and enabled him to eat.

For sixteen years now he had worked on the children's radio program, singing nursery rhymes with Miss Alsop, and lending his voice to an animated puppet called Siegfried, who was a top-hatted rabbit, and a great favorite with the kids.

This work gave him considerable free time, and there was nothing he liked better than to spend his hours of leisure at the zoo, watching the small defenseless creatures of nature engaged in their harmless pursuits. He knew a way of reaching the houses in which they were kept without going too near the large and dangerous mammals. Whenever he was compelled to pass the lions and the tigers, he would imagine ways in which he could save himself if by some chance one of them escaped while he was in the vicinity. He eyed every railing, judging its height, and would walk a little quicker when he was nowhere near a door.

In traffic, too, he would sometimes remain alone on the pavement while a herd of people crossed against the light, trusting in safety in numbers. He could not mount or dismount from a moving bus, nor

could he face the escalator in the subway. He was haunted by visions of catching his foot in the machine, and often dreamed about it. The electric rail both fascinated and terrified him, and he couldn't bring himself to travel that way during the rush hour, for fear of being pushed onto it by the crowd. Elevators were another conveyance of which he had a mortal fear. If the car suddenly should drop, he often wondered if it wouldn't be possible to jump in the air at the moment of impact with the bottom, and made elaborate plans for just such a contingency.

Once he had tried to ride a bicycle, and had found it fairly easy to retain his balance, but the sound of any internal combustion engine behind him made him wobble and eventually fall. Being a very phlegmatic person basically, he needed no psychiatric assistance, since no wise man would ever make him braver, and it was merely association with other people, with crowds and machines and open spaces which confused him. Alone, at home, with his few bits of Victorian furniture, his brown velvet curtains, and his odds and ends, all inherited and remembered with affection from the days of a poor but untroubled youth, he felt entirely confident and controlled. When he made himself some tea, and it was often, he laid all the dainty implements out as though he were expecting company. He sipped the tea out of a cup decorated with fading roses, and passed a few polite remarks about it in a small, high voice, taking nine or ten minute mouthfuls to dispose of a scone, and wiping his hands on a monogrammed napkin as though trying to remove bloodstains afterwards. He always washed up after every meal, wearing a mauve apron which had been his mother's. The place was invariably spotless, even if it smelled of age, dampness, and the acrid odor of methylated spirit used to clean the pewter mugs and horse brasses which hung, cottage-like, around the mantelpiece.

This peaceful haven was a two-room apartment on the second floor of a low house in Bayswater, London, north of the park. It is an area of decaying opulence, which finally received its *coup de grace* during the war, when the bombs felled buildings which would have fallen down anyway. The only other occupant of the house was a Mrs. Sidney, whom Edwin often greeted in the entrance hall, since she appeared to go in and out of her flat with extraordinary frequency. She was a polite lady with a careworn expression and a common voice, and her perfume was disagreeably intense. A Sealyham terrier.

One summer's day Edwin finished his radio program a little earlier than usual, and after returning home briefly for tea, he sped to the zoo in a bus. He pursued his usual complicated path to his friends, the rabbits. He stayed there a full two hours, reflecting that there is no greater consolation in life than to find a creature who shares your fears. So long as rabbits were part of nature, with their innocent eyes and contented chewing, he was just a timid man, not a freak.

When he emerged into the open, it was already beginning to get dark. The zoo was on the point of closing for the night, and he hurried back the way he had come, only to find about halfway to the turnstile that his path was blocked by a barrier. They had begun to work on some underground cables. There was nothing for it, he had to retrace his steps and take the shorter road by the lion house. He began to run, not only because of his fear of being locked in the zoo for the night, but also because the lions were in a fretful mood, and roaring.

The twilight played all manner of cruel tricks on him. As he ran, he believed he saw shapes moving before him, crouching in the shadows, encircling him silently. He staggered through the turnstile and stood for five minutes in the street, leaning on a lamp post, recovering his breath. His thin white brow was beaded with perspiration. It was a bad way to start an evening.

The bus stopped near his home, and he was about to step off, when, with a lurch, it left again. He remonstrated with the conductor, who was not very helpful, but at least made sure that he got off at the next stop before it left again. As he alighted, he apologized to the conductor out of force of habit, although he had absolutely nothing to apologize about.

He walked back towards his home absently, his imagination crowding with leaping lions and crouching pumas. Oh, dear, if it was like this when he was awake, what would it be like when he was asleep? He would have to take a pill and set the alarm. Near his front door, he looked up and saw the police. Not one bobby, but four of them, a squad car, an ambulance, and a couple of plainclothes men.

He stopped dead. This was worse than lions. He couldn't see their eyes, which were hidden in the shadow of their hats and helmets, but there was no mistaking the fact that they were looking at him.

What had he done? His radio license had been posted on time, unless it had been mislaid in the mail. The rent had been paid, and the rates. His income tax was deducted at source. During the war, his record had been impeccable as far as his rations were concerned. Admittedly, he had accepted a little extra sugar, but only from a diabetic friend. He had a sweet tooth. Was that a crime? And if it was, did it warrant an entire platoon of policemen and detectives?

The longer he stood there, the more guilt he felt. Suddenly, he could stand the tension no longer. He turned and walked away. Behind him he could hear one, two, three footfalls. This was like riding a bicycle. The feet seemed to be gaining on him. He walked faster. As he passed a lamp post, he saw his shadow lengthen grotesquely, and just before he walked out of range of the light, the shadows of three helmets shot past his feet like arrows and disappeared into the gloom. At the next lamp post, the three helmets were closer behind him. He started to run and reached the road. Here he paused in order to be certain that no traffic was approaching. He looked right, left, right again, as he had been taught in the propaganda against jaywalking, and they caught him.

"Are you Edwin Applecote?" asked a stout policeman.

"No."

"You aren't Edwin Applecote?"

"Yes," said Edwin, crestfallen.

"Then why did you say you wasn't?"

"I don't know, sir. I lost my head."

"What made you run away?"

"Same reason, I suppose. What have I done?"

"I don't know. We want you to answer a few questions."

"What about?"

"There's been a murder."

"Murder?"

Edwin fainted in the arms of the policeman who was standing behind him, and they carried him back to his house.

Detective-Inspector McGlashan saw the strange cortege approaching and called out, "Did you get him?"

He was a no-nonsense man with a glorious record in the Western Desert, where Montgomery had helped him to win the campaign.

His eyes narrowed as he said, "Resisted, did he? The blighter."

"No, fainted," answered Constable Matley. "Fainted clear away when he heard there'd been a murder."

They put Edwin gently in the gutter to rest.

"So that's Applecote, is it?" snarled McGlashan. "Pretty poor specimen."

"I'd say he weighed about ninety pounds," laughed Matley. "Some people have all the luck."

Constable Norton was very young. Seeing the intense expression on McGlashan's face, he said, excitedly, "You don't think he did it, do you, sir?"

McGlashan shot a withering look at the boy.

"I know, Norton, that in the detective stories, criminals always return to the scene of their crime, but they usually allow a decent interval of time to elapse. If you committed a murder, would you come back an hour later?"

"No, sir."

"Why not?"

"Well . . . well . . ."

"You'd be frightened that you'd run headlong into the police, wouldn't you?"

"Yes, sir."

"Very well, then, stop talking through the back of your head."

"Yes, sir." Norton wasn't defeated. His keen young face lit up again.

"Of course, he may be a loony, sir."

McGlashan looked sourly at Edwin.

"I wouldn't put it past him at that," he growled.

"Where am I?" asked Edwin, who was in time to see a body being carried from his house on a stretcher.

"Hold it," said McGlashan to the stretcher bearers, and then turning to Edwin, asked, "Did you know Mrs. Sidney?"

"Yes—that is, I didn't know her exactly."

"You'd recognize her if you saw her again?"

"Oh, yes. She's been living here for over three years."

McGlashan helped Edwin to his feet and walked him to the stretcher.

With a brisk, unemotional gesture, he pulled the blanket away to reveal the face of Mrs. Sidney, hideously mangled and spattered with blood.

Edwin screamed and fainted again. McGlashan caught him and called in a disgusted voice, "It's her all right. Norton, Mayhew, get him off me."

The pathologist, Dr. Golly, came slowly out of the house.

"She's been dead less than an hour," he said. "Evidently she didn't die at once."

"Of course not. She called the police," said McGlashan. "Death was caused by the cumulative effects of a beating, both with fists and with a stick, as far as I can see at the moment. She had been drinking. Very sordid."

Edwin was white. He had a splitting headache, and wished to be sick.

"Let's go up to your flat," said McGlashan.

"All right."

Edwin led the way, but stopped when he saw some dark patches on the wooden floor of the entrance hall.

"What's that?" he asked.

"Blood."

Edwin vomited, and then declared that he couldn't stay there a moment longer.

They took him to the station and gave him a cup of tea. As he drank it, he was composed enough to reflect that their tea wasn't a patch on his.

"Now," said McGlashan, "where were you an hour ago, that is at about seven-fifteen to seven-thirty?"

"I was at the zoo."

"The zoo closes at six."

"Not in summer."

McGlashan nodded. Edwin had escaped from that trap.

"What were you doing at the zoo?"

"I often go."

"That's no answer."

"I like the zoo. I go to look at the animals."

"Which animals?"

"Lions, tigers, all animals," he lied, and blushed. He was seized with a feeling that he had deserted his little friends. "Rabbits," he added lamely.

"Rabbits," said McGlashan, with more intensity than the word could carry. He lit a cigarette in order to appear casual.

"Cigarette?"

"I neither smoke nor drink. May I have a butterscotch pastille? They steady me."

McGlashan was beginning to wonder whether Edwin wasn't slightly mad, or perhaps just acting stupid.

"You say you go to the zoo often. You must have a very special kind of work to get so much free time."

"I work for the BBC."

"What are you, a sports commentator?"

"Oh, lordie, no. I work on the children's program *Come Out to Play*, at three-fifteen daily."

"My daughters watch that."

"Do they?" cried Edwin with delight. "How old are they?"

"One's five, one's two."

"Ah, the two-year-old would be a little young to understand."

"She's old for her age."

"Has she any favorites?"

"Wumbly the Mule."

"Ah, yes, that's Miss Alsop."

"I beg your pardon?"

"Miss Alsop lends her voice to Wumbly. I do Siegfried the Rabbit."

"Rabbit," said McGlashan, putting two and two together and finding no satisfaction in the result. "Give me your autograph, will you, for Jennifer?"

"Really? D'you mean it?" Edwin hesitated. "But this is an official document."

"Doesn't matter." McGlashan smiled wanly. "It's O.K. I'm not tricking you into confessing to a crime you didn't commit. Just sign Siegfried the Rabbit if you wish."

Edwin did so, feeling that there was warmth in the coldest heart if you probed long enough.

"Now," said McGlashan, pocketing the autograph, "let's get down to cases. You often saw Mrs. Sidney?"

"Oh, poor lady, yes, indeed I did. She always seemed to be going in or out."

McGlashan smiled grimly. "I'm not surprised, seeing the nature of her work, are you?"

"What exactly was the nature of her work, sir? I often wondered, but I didn't wish to appear inquisitive. I always imagined she must have had private means."

McGlashan stared at him, incredulous.

"How long have you been living there?" he asked.

"Three years."

"And how long has Mrs. Sidney been living there?"

"She was there when I moved in."

"You noticed nothing?"

"I noticed that she seemed very popular. She was always receiving visitors. In fact, truth to tell, I was a little puzzled that she never asked me in. After all, I was her neighbor." He smiled sadly. "She used to play her radio at all hours, but I didn't really mind. I never liked to bother her. Every time I went down to ask her up for a cup of tea, I could hear through the door that she had company."

There was a pause.

"Don't sit on the edge of the chair," said McGlashan. "Lean back. We don't want you to faint again." He cleared his throat. "Mrs. Sidney was a common harlot."

"A what?" asked Edwin politely.

"A strumpet, a tart."

"I'm sorry, I don't understand."

McGlashan rolled his eyes with exasperation and brought his fist down on his desk. Steadied, he put on a sweet expression and said, "A lady of easy virtue."

"Oh, no," whispered Edwin, turning purple. "Mrs. Sidney? Surely not."

"She picked up customers in the park and brought them back to the flat below yours."

For the first time in his life, Edwin lost his temper. "How disgusting!" he cried in his small voice.

His display of spirit had taken a lot out of him, and he was obviously in no condition to continue answering questions. As he only had very little money on him and clearly couldn't face his own apartment, McGlashan lent him a pound, and the police found him a room in a small hotel in the area. After he had gone, Constable Matley asked McGlashan whether any information had been gleaned from Edwin.

"No," McGlashan grunted. "He's a dear little fellow, but he's going to be a bloody awful witness when the time comes," and then added, "I don't know how a man like that can survive in this day and age."

Edwin didn't sleep a wink all night, and he worried his colleagues at work. He forgot the words of *Oranges and Lemons* right in the middle of the program, and seemed quite unable to take a prompt from Miss Alsop. Siegfried the Rabbit was particularly morose that day, and even incoherent. Mothers all over England telephoned to complain that their children had been unable to understand all that Siegfried had said.

He cashed a check and bought a shirt, but couldn't bring himself to go anywhere near the zoo. He returned to the hotel, and just sat down, staring at nothing. At halfpast six, Mr. McGlashan dropped around. "Cheer up," he said.

Edwin hardly reacted.

McGlashan sat down on the bed.

"The main thing is to take an interest in what's going on," he said. "Don't let your mind go blank. You'll have a breakdown."

"Take an interest in what?"

"In our work. You're part of the case, you know. Seen the evening paper?"

"No."

McGlashan put it on Edwin's lap.

The headlines announced that a man had been arrested for the murder of Gertrude O'Toole, otherwise Mrs. Sidney.

"Yes," said McGlashan, "we got him this morning. An easy case. I'm glad we got him that quick. The public was beginning to get restless. So many unsolved murders. We found some letters from him in her handbag, and we picked him up early this morning, asleep on a bench on the Embankment."

"Who is he?" asked Edwin involuntarily.

"A pimp."

"A what?"

The devil wouldn't know where to begin tempting this one. McGlashan felt he was dealing with a clergyman's daughter.

"A man who lives on the immoral earnings of a woman or women," said McGlashan, making it sound as natural as he could.

"How is that possible?" asked Edwin, his voice trembling.

"The woman earns the money, by soliciting, then she gives most of it to her male friend. Women who live that way are curious emotionally. They only live half a life, and this crazy kind of generosity may be their gesture towards the normal life they're forced to do without. I don't know. I'm not a psychologist. I just see the seamy side of life, recognize its patterns, but beyond that I'm not qualified to go. Can't change anything."

"But what about the men . . . the men who accept such money?"

Edwin's face was a mask of real suffering, of horror.

McGlashan kept the tone of his voice as relaxed as he was able, almost weary.

"There'll always be men who think it's smart to get something for nothing, just as there'll always be men who think the male sex is superior to the female. Their instincts invariably seem to lead them to women who agree with them, and who get a vicious kick out of being victimized and pushed around." McGlashan was an intelligent, even an interesting man. His undoubted physical courage was matched by an inquiring and often paradoxical mind which hardly seemed to suit his very active face. He recognized that it took all sorts to make a world, and he was not content with just saying so as a platitude when the occasion arose.

Now he sat facing Edwin, dealing with the situation with the tenderness of a regular sergeant who realizes that some wretched conscript is totally unsuited to his life, and that he is doing his unit more harm than good by his presence there. He leaned forward confidentially.

"I know all these facts are pretty shocking to you, Applecote, but these things exist, and we're not being quite realistic if we try to pretend they don't. Mind you, I'm not telling you all this just in order to get a rise out of you, or to see you flinch. I realize you must have lived a pretty sheltered life, or you'd hardly be surprised by all this. You'd have known Mrs. Sidney for what she was. You might even have moved house. But look here, you're bound to be called on to give evidence—"

"Me?" cried Edwin.

"Yes."

"I'd die!"

"No, you won't die. I just don't want you to make a fool of yourself when the time comes. I don't want you to stand up there and pretend you didn't know what Mrs. Sidney was up to. Nobody'd ever believe you."

"You believe me, don't you?" asked Edwin, averting his eyes.

"I believe you, but it took me nearly twenty-four hours, and you won't be that long in the witness box. Some of these legal guys are tough customers. Too tough, I think. None of them care much for the police, that's how I know. If it should be Sir Cleverdon Bowyer or Sir Giles Parrish prosecuting, well, they're pretty impatient and sarcastic. They're out to rattle you. They want a conviction more than they want the truth."

"Oh, I don't believe that, not in England."

"Anywhere, Applecote. They're like boxers. They've got their reputations to think of, same as you and I. And the way they lose their reputations is by losing cases."

Edwin became sullen and uncommunicative, so McGlashan rose and went to the door.

"I'm going to be proud of you," he said.

"I owe you a pound," said Edwin.

"Never mind about that now—" For the first time McGlashan was embarrassed, and he left.

Back at the station, he confided in Constable Matley.

"I don't give a damn for the killer, he's got it coming to him. I'm worried about Applecote, though. If he falls foul of Bowyer or Parrish, they'll eat him up. Silly to call him really, but I bet they do."

After a few days the producer of Edwin's show, Miss Butler, took him aside and asked him if he was ill. He obviously couldn't concentrate properly, his complexion was appalling, there were pendulous bags under his eyes, and everyone in the department was very concerned about him. He blurted out the truth to her and burst into tears. They

were all very kind and understanding, and he was given a week's leave with pay to recuperate.

This enforced absence did him no good whatsoever, since he just sat in his hotel and brooded for four days, eating nothing and sleeping not at all. On the fifth day, he was summoned as a witness for the prosecution. He was expecting this, since he had been interviewed by the clerk of the redoubtable Sir Cleverdon Bowyer, who was prosecuting in the trial of Arnold Ahoe, the alleged murderer. The meeting had passed in a dream, and Edwin could remember nothing of it. He was invaded by a great feeling of emptiness. He could no longer see clearly. Black spots exploded in his eyes, and strange embryonic shapes kept passing sideways across his vision. There was a high, distant song in his ears.

He sat waiting to be called without emotion. Then at last he heard his name chanted by what sounded like an army of toastmasters, and he emerged into the courtroom. The glands at the back of his neck were swollen, and the nerves contorted. Every time he moved his head, it was as though a cargo of packing cases were shifting from one temple to the other in a rough sea.

The judge, Lord Stobury, had the characteristic traits of his profession. A vulture's head was set below the hunched line of the shoulders, the white wig seeming to be powdered with the dust of death. It was hard to tell whether the eyes were open or shut, since the shadows which the brow cast on the eyelids looked strangely like dull, dark pupils. Behind Lord Stobury, a vast lion and unicorn propped up the arms of the realm on the wall, their expressions vindictive and intolerant. Sir Cleverdon Bowyer stood with his thumbs in his waistcoat pocket, a picture of assured arrogance, his single uninterrupted black eyebrow hanging like a canopy over his steel-gray eyes. Mr. Herbert Ammons, the council for the defense, sat with the florid benignity of a fresh Dutch cheese on a welcoming buffet, expressing nothing as yet, his lips curved maliciously in repose. Ahoe, the prisoner, stood listlessly in the dock, an insignificant enough man who seemed quite unworthy of being the pretext for this heraldic assemblage.

This, then, was the place where British justice was dispensed, the place where men were told that they were innocent until proved guilty, but where the atmosphere told them that they were pretty guilty even

if proved innocent. Edwin took the oath, and Sir Cleverdon wheeled himself into the position of assault like a wicked piece of artillery. He was a man who had done everything in his life with skill and application. In the 1930's he had run a mile in only very little over four minutes, he had represented his country in a bobsleigh on the Cresta Run, he had won races as a yachtsman and a rally driver, and he had once taken ten games off Tilden. Now he looked as though he were embarking on a sporting contest which he intended to win.

"You are Edwin Applecote?"

"Yes," said Edwin inaudibly.

"Do I pronounce your name right? Is it Cote or Cott?"

"Whichever you prefer."

"You are really most accommodating. You live, as I understand it, in the flat above that of Mrs. Sidney, the murdered woman?"

"Yes."

"How long have you lived there?"

"Three years."

The judge interrupted.

"You must speak up," he said. "I can't hear the answers, and I must hear the answers. That is the cardinal rule of giving evidence. Whatever you say, be audible at all times."

Edwin bowed elaborately.

"Proceed."

The questions at the beginning were fairly pedestrian, since Sir Cleverdon was sure of victory.

"You were, of course, aware of the fact that she was a common harlot," he said suddenly, after several minutes.

"No," said Edwin, his eyes shut. This was terrible, terrible, all these questions in public.

Sir Cleverdon looked up, quick as lightning.

"You were not aware of the fact that the woman was a harlot? Come, come, do you expect me to believe that?"

He shot a look at his clerk, who was completely dumfounded. In the preliminary meeting, Edwin had said everything McGlashan had told him to say, but now, for some reason, he was being utterly honest.

"Is it not a fact," Sir Cleverdon proceeded, "that the deceased was in the habit of entertaining frequently?"

"Yes."

"She arranged her entertainments so that there was only one guest at a time, did she not?"

"I don't know."

"Well, you never saw any women entering her apartment did you?"

"Not that I can recall, sir."

"Did you see men enter her apartment?"

"On one or two occasions, yes."

"Did you ever see the prisoner enter Mrs. Sidney's apartment?"

Edwin looked at Arnold Ahoe.

"I can't tell without my glasses, sir."

"Have you got them with you?"

"Yes."

"Then put them on by all means," Sir Cleverdon thundered, his face suffused with irritation. "Well?"

"I may have done. I can't be sure."

"You can't be sure?" Sir Cleverdon repeated incredulously.

"Yes, I think I have seen the gentleman before, but I wouldn't know where I'd seen him."

"The gentleman?"

There was a ripple of laughter in court. Even the prisoner grinned bleakly. The judge rapped his gavel.

Sir Cleverdon had never come across anything like it. What Edwin had said before was entirely different, and Sir Cleverdon was relying upon him to establish an odious and salacious character for the deceased, and therefore, by implication, for the company she kept.

"Do you feel quite well?" asked Sir Cleverdon.

"I haven't been feeling very well recently."

"Perhaps in that case it would be better if we were to excuse you from testifying until such a time as you feel better."

Mr. Ammons was on his feet at once, his cheeks flushed with the pressure of blood and ambition.

"If my honorable and learned friend has finished, I would like to ask the witness a few questions."

"The witness is ill, m'lud," Sir Cleverdon remonstrated.

"He seems able to stand," said the judge in chilly tones, "he is vertical and breathing. The idea that he is ill emanated from you." The judge looked over his glasses at Edwin. "Would you describe yourself as ill?"

Edwin felt a great temptation to give up, but he was too truthful.

"No, my lord."

"Very well. Have you finished, Sir Cleverdon?"

"For the time being, m'lud," said Sir Cleverdon bitterly.

"Proceed, Mr. Ammons."

Sir Cleverdon leaned back and whispered furiously to his clerk, who shrugged his shoulders and wrung his hands.

A pinched smile spread over Ammon's face, a smile of conditional friendship.

"Mr. Applecote, what is the nature of your employment?"

"I'm employed by the BBC, sir."

"The British Broadcasting Corporation," said Ammons, turning towards the jury, and making it sound like a piece of the national heritage. "What function do you serve in that august body?"

"I work on the program for children *Come Out to Play*."

"As an artist?"

"As a singer, sir."

"And how long have you been employed in such a manner?"

"About sixteen years, sir."

"Sixteen years!" cried Ammons, as though it were a century. He grasped his lapels and lowered his head for the charge. "In other words, the British Broadcasting Corporation has seen fit to employ you for sixteen years on a program designed for the pleasure and edification of the young, the men and women of tomorrow, my friends, in their most formative years, the years in which the seeds of hatred, of corruption are, alas, most easily sown. It follows from this that the British Broadcasting Corporation considers you a responsible man. Do you agree with the corporation? Do you consider yourself responsible?"

"Yes, sir, I like to think I am."

"There is no need to be modest here, you know. Would you consider yourself a moral man?"

"I hope so."

"Kindly confine your answers to yes and no," snapped Ammons, losing his smile for a moment. He hated this English incapacity to think highly of oneself in public when it was most urgently needed.

"I would like to be a moral man, sir."

"You don't consider yourself immoral, do you?"

"Oh, no, sir," said Edwin, horrified.

"Very well then. Would you, a moral, responsible man, knowingly take a flat above that of a known woman of the night?"

"Woman of the night, sir?"

"Prostitute," barked Ammons.

"Oh, no."

"How long have you been in residence at your present address?"

"Three years, sir."

"And Mrs. Sidney was living there when you moved in?"

"Yes, sir."

"It stands to reason, therefore, that she gave no appearance of being a woman who lived by commercializing her body, or you would not have stayed?"

"No, sir, I don't think I would."

"And in the three years, the suspicion never entered your mind that she might have belonged to the world's oldest profession?"

"The world's oldest what, sir? I didn't catch that."

"That she was a . . . a prostitute," Ammons practically shouted. He detested having the elegance of his delivery frustrated by stupidity. He glanced at Sir Cleverdon, who smiled grimly.

"No, sir, I didn't know."

"But you do know now, is that it?"

"I've been told."

"Told? By whom?"

"The police."

There was a stir. Ammons looked at the jury. "An allegation, a slur on the character of a woman who is not here to defend herself has been cooked up callously by the police, eager for a quick conviction, whereas a responsible, a moral man, living in the closest possible proximity to the deceased noticed no sign of his neighbor's immoral practices over a span of three years, of thirty-six months, of well over a thousand days!"

Sir Cleverdon objected. Mr. Ammons's job was to cross-examine the witness, not to make speeches to the jury.

The judge upheld the objection, and Mr. Ammons apologized without contrition.

"Take a good look at the accused. I suggest to you that you have never seen him before."

"I couldn't swear it."

"Would you call the face of the accused a distinctive one?"

"I wouldn't know how to answer that, sir."

"Wouldn't you? Then I will tell you. You would answer it by a yes or a no."

"I don't like passing personal remarks about people's faces, sir. After all they can't help the faces they are born with."

The judge answered Ammons's mute appeal with a rap of the gavel.

"That does not seem to me a very fruitful line of country to explore, Mr. Ammons," said the judge.

"I only want to establish the fact that the accused had never been seen before by Mr. Applecote, m'lud."

"The witness has already said that he could not swear to it. Since he is under oath, we must accept his answer at its face value. He may have seen the accused, for all he knows."

"And I may not," said Edwin recklessly.

"I beg your pardon?"

Now even the judge was beginning to become a little rattled.

"You see, my lord," said Edwin, "I may have seen Mr. Ahoe's face on a bus, or in the street. It certainly looks familiar, and yet it may be just that I have seen a face very much like it somewhere or other."

"We are not here to test your memory for human physiognomy," said the judge acidly. "Perhaps, with Mr. Ammons's permission, I may be allowed to ask you whether you actually saw the accused entering the deceased's place of residence at any time."

"I may have done, for all I know."

"And you may not. Very well, proceed," muttered the judge with a huge sigh. "The answer is no."

"Well—"

"That's enough of that," said the judge. "We are wasting time."

"Did you ever speak to Mrs. Sidney?" Mr. Ammons resumed.

"Yes, sir. Never much more than a good morning or a good day."

"Would you describe her as a pleasant, well-spoken person?"

"Yes, sir. Very pleasant. And very well spoken. Her use of language was a little common perhaps, but that's not for me to say."

"How can a person be well spoken and common at the same time?" rasped the judge.

"Is it difficult, I admit, sir. I don't like speaking ill of people. It's not my place."

"It is your place to tell us what you know, and not to indulge in niceties here. Now, was she, in your opinion, well spoken or vulgar?" The judge hated gray as much as he loved black and white.

"She was well spoken, I would say."

"Very well. Proceed."

"With a tendency towards vulgarity."

The judge threw up his hands.

Edwin added quickly, "I don't think she could help it, you see."

"She had none of the traits you would associate with her alleged profession, had she?" asked Mr. Ammons. "No excessive paint, no perfume, no high heels or black stockings or the like?"

"Well, she used a very strong perfume, sir, which I could smell upstairs."

"Are you suggesting that her perfume penetrated through the floorboards and the carpeting?"

"Oh, yes, sir, it gave me headaches. I complained once or twice, in a polite way."

"Did you complain orally?"

"No. Every time I went down, I could hear through the door that she had company. When she hadn't got company, she was out."

"You mean you listened at her door?"

"Oh, no, sir, you could hear their voices halfway up the stairs."

"Did you listen to the conversations halfway up the stairs?"

"No, sir, I only heard the conversations, I never listened. It wouldn't have been right. And it wasn't always conversation. Sometimes it was just the radio and some furniture moving sounds."

Ammons cleared his throat. "I see. How did you transmit your messages of complaint since you didn't do it orally?"

"I wrote notes, which I pushed under her door."

"Were they ever answered?"

"Never. Except—" Edwin stopped.

"Yes?"

"Once the door opened when I had just pushed my message under it."

"Who appeared?"

"A gentleman."

"A gentleman? How was he dressed?"

"In an undervest."

"And?"

"That's all."

Mr. Ammons faltered. "Do you mean to tell this Court that Mrs. Sidney's door was opened by a man dressed in nothing but an undervest?"

"He may have had socks on, I can't remember."

"No further questions."

Sir Cleverdon rose, his eyebrow arched in triumph.

"With your lordship's permission, I would like to ask the witness a few more questions."

"Not too many, I hope. Proceed."

"Do you remember the face of this man or gentleman, if you prefer it. Would you recognize it again?"

"Well, he was of medium height, dark, fair skin."

"Did he look at all like the accused?"

"Yes, now that you mention it, very much, but I could never swear it was him."

There was some excitement in court, and Ahoe looked at Edwin with sheer hatred.

"And what did this man say to you?"

"I didn't understand what he said to me, but it sounded like—" And here Edwin spoke two words which are never used in any society. There was a gasp in court, a girl giggled, an elderly man shouted something incomprehensible, and the judge demanded order.

"We may see from this the degree of refinement which the friends of your well-spoken neighbor were wont to reach," said Sir Cleverdon.

"What does it mean?" asked Edwin, sick at heart.

"Never mind," said Sir Cleverdon, "but I would advise you not to use it as an expletive in civilian life, however popular it may be in the Armed Forces." And then he added, to put Edwin out of his misery, "It is a way of saying please go away." (Laughter.)

When silence had been re-established, Sir Cleverdon went on, "When did this occur?"

"About eleven o'clock in the morning."

"But when?"

"Oh." Edwin had not recovered from his shock. "On the morning of the murder."

There was consternation. In the previous testimony, Ahoe, who was a truck driver, had freely admitted knowing Mrs. Sidney as a casual acquaintance, but had said that he was with his sister in Islington from nine in the morning of the day of the murder until after the murder. His sister had confirmed his alibi.

"Are you sure of this? On the seventh of July?"

"I don't remember the date, but it was that day. I was on my way to work."

"What time did you leave for work?"

"About eleven."

"Don't you know the precise time of your departure?"

"About eleven."

"Do you mean to tell this Court that you don't know what time you leave for work?"

Edwin began to falter. This was the last straw.

"Do people usually know exactly the time they leave for work?"

"Yes," snapped Sir Cleverdon.

Was he alone in the world, a freak after all? The rabbits could never share this terrible experience with him. How long could he stand this nightmarish room, which seemed to be full of people who knew exactly what they were doing at all hours of the day, and even knew what others should be doing.

"About eleven," he heard his voice saying.

"What time are you due at the BBC?"

"Eleven o'clock."

"Do you mean you leave at about eleven to reach a destination half-way across town at the same hour?"

"I was late that day."

"What time did you arrive?"

"Some time after eleven."

"How long after eleven?"

"About ten past . . . a quarter past."

"How long does it take you to get from home to the BBC?"

"About twenty minutes."

"So it is logical to suppose that you left home between five and ten to eleven?"

"I suppose so."

"Why couldn't you have told me that at the outset?"

"Why?" Edwin blurted. "Because I have sworn to tell the truth and nothing but the truth, and I was wrong to swear it."

"What was that?" asked the judge.

"I don't know the truth," he cried, wide-eyed. "I know I should know exactly about everything, but I don't. I don't know what time I left home, and even if I knew it to the minute, I probably wouldn't know it to the second, and if I couldn't tell you everything, in the minutest detail, I wouldn't be telling you the truth."

"You must speak up," said the judge.

Funny, Edwin thought he had been shouting. Now it appeared he had been muttering all this to himself. He shook his head violently from side to side, closing his eyes, and saw no clearer when he opened them again.

Sir Cleverdon was looking at him intensely, an eagle. So was the judge, a vulture, and Mr. Ammons, a mole.

"In any case, you left home after half-past ten in the morning?"

"I must have done."

"Did you return home again before seven o'clock?"

"Yes, I think so."

"You think so."

"Please don't speak so quickly."

"You must speak up," said the judge.

With a superhuman effort, Edwin pulled himself together.

"The program goes on the air at three-fifteen," he said. "Three-fifteen sharp. It lasts till three-forty-five."

"What did you do after it was over?"

"I returned home to make myself a cup of tea."

"Straight away?"

"Yes."

"So we can assume that you arrived home between four and four-fifteen?"

"I suppose so."

"What do you mean, you suppose so. It stands to reason, doesn't it?"

"If you say so, sir."

"I do. How long did you stay at home?"

"Long enough to make a cup of tea and eat a scone. I had one scone, with margarine and raspberry jam. Then I washed up, dried the dishes, put them in the cupboard, and left for the zoo."

"So, that might have taken another quarter of an hour?"

"I don't know."

"Are you an exceptionally slow eater?"

"I don't know."

"It really is extraordinary that there are people who go through life with no knowledge of when they do what they do or indeed how they do it. Now, concentrate if you will. During your visit to your flat in order to have your cup of tea, was there any evidence of the man's continued presence in Mrs. Sidney's flat?"

"I heard voices."

"Voices?"

"A man was shouting. The radio was on, playing dance music. There was a noise like glass breaking."

"Did you recognize the voice as being the same as the one which had uttered that filthy expletive to your face?"

"I can't tell. It may have been, it may not."

"Did you hear any of the words this voice uttered?"

"Yes. No, I daren't say them, for fear they may be immodest."

"I instruct you to tell us what you heard," said the judge, leaning forward, "and speak up."

"I heard something like—one more crack, or clack out of you, and I will mash you—something like that."

"That was the man talking?"

"Yes, is it very terrible? I remember that because I didn't understand it."

"Did you hear her voice?"

"No, just her laugh. I kept hearing her laugh, right up to the time I left."

"And what did you think when you heard the glass break?"

"I thought someone had dropped a glass."

"Was it not a more violent sound than that? Was it not the sound of a glass which had been thrown rather than dropped?"

"What would be the point of that?"

"A glass can injure if it is thrown hard enough and hits its target."

"I've never heard of anyone doing that."

"Speak up," said the judge.

"Now, when you left to go to the zoo," asked Sir Cleverdon intensely, "did you see a vehicle parked outside the house?"

"I don't remember."

"A six-wheeled truck?"

"I don't know."

"You noticed no vehicle at all?"

"Oh, I do remember some boys playing cricket in the street. The ball rolled under a car, and one of the boys went underneath to get it. I told him to be careful, as it was dangerous, and I looked into the driving compartment to make sure that the driver wasn't there."

"How old was the boy?"

"About ten, twelve, fourteen perhaps. I'm not very good at the ages of children."

"If he was playing cricket, he was presumably over six."

"Oh, I think so, he was smoking."

"Smoking? You said it was a car. Would a boy of an age to smoke find it easy to clamber under a modern car?"

"No, it must have been bigger than a car."

"Did you have to stoop in order to look into the driving compartment?"

"No, I had to stand on tiptoe."

"Stand on tiptoe? Unless the car was built before 1910, I suggest it was a truck—a gay Leyland truck, perhaps, with the name of the Hiscox Brothers, of Hemel Hempstead in white letters on the door?"

Ammons objected to the form of the question. Sir Cleverdon withdrew the question, but no one could deny that he had asked it.

"I do remember something about it," Edwin volunteered, his hand over his forehead.

Ahoe tensed visibly.

"Speak louder," commanded the judge.

"I remember . . . there was a picture . . . a transfer I suppose it was . . . of a young lady rather immodestly dressed in a bathing costume . . . holding a colored ball . . . it was stuck on the window the drivers have to look through to see the road . . . the windscreen, is it? I remember wondering how the police could tolerate such a thing, placed as it was, in the line of vision, and rather disgustingly suggestive."

Although this was quite inconclusive as evidence, Ahoe evidently thought he had fallen into a trap, and being a man of short and vitriolic temper, he rose to his feet and yelled a repulsive phrase at Edwin, which Edwin mercifully didn't understand.

Sir Cleverdon threw down his papers dramatically. Ammons muttered, "No further questions."

The judge looked straight at Edwin and said, in the crackling tones of a boot on autumn leaves, "If it should ever fall to your lot to give evidence again, I strongly advise you to be more observant and also more coherent. Today you initially gave the deceased a rosy and innocuous character, and then, under cross-examination, you proceeded to attribute to her a character so different that it is hard not to suspect you of mendacious intentions at the outset. I do not believe this is so, since you are clearly a man who is not used to giving evidence, and who sincerely believes that a person should be accorded the benefit of the doubt. But a benefit of the doubt is one thing, and a total blindness to the facts is another. It leads to dangerous evidence, which might, if not subjected to the most stringent methods of our legal system, even entail grave miscarriages of justice. I urge you to reflect on what I have said, since your evidence here today has been, in all my experience, the most misleading and the most illogical. Next witness, please."

Edwin was not the key witness by any means. Ahoe's sister, on re-examination, broke down and confessed that her alibi had been a lie. The truck had been over twenty-four hours overdue, and the police found letters and fingerprints which eventually sent Ahoe to prison for life.

But Ahoe was not the only one whose mode of living was affected by this case. Edwin could no longer go home. He stayed on in the hotel, taking care to lock the door on every occasion. He bought a little book, and carefully inscribed the exact minute he left for work and the exact moment he arrived for work. As he sat in the bus, his eye scanned the road for anything suspicious or noteworthy. His perception was unnecessarily acute, and his manner had become curiously abrupt.

At work, he would greet his old friend Miss Alsop by saying things he had never said before. "Good morning, Miss Alsop, you are wearing green, I see. Green tweed, is it? And a cameo depicting

the head of a Georgian lady in profile. Shoes? Brown brogues, lisle stockings. Thank you. That will be all for the moment." And he would note all these details in his book. Miss Butler was subjected to the same strange treatment, and he would even stop singing the middle of his nursery rhymes, not because he had forgotten the lines, but because he suddenly noticed as he sang that the studio clock did not tally to the minute with the watch on his wrist. Only when playing Siegfried the Rabbit was he entirely his old self, tender, whimsical and slightly tragic.

Miss Butler tried valiantly to understand his problem. "Do you never go to the zoo as you used to?" she asked kindly.

A sly look came into his eye. "Oh, no," he answered, "animals can't talk. If anything were to happen to me there, they could never give evidence."

"What could happen to you?"

"Murder?" said Edwin, unmoved.

"Murder? Who would want to murder you?"

"There are millions of people in London," Edwin said evasively, "but they'd never get away with it, not now. Do you know, when I go home at night, I lock the door and write out on a piece of paper who I am and what I do, addressed to whom it may concern, and I hide it under the mattress. I outline all my movements for that day, whom I have talked to and what we talked about. You, Miss Butler will be on it tonight, and so will our conversation." He glanced at his watch. "It's four-oh-eight."

"But why do you do this, Mr. Applecote?" asked Miss Butler, beginning to feel distinctly uncomfortable.

"To classify the evidence, Miss Butler. I don't know whether you've ever given evidence, but it must be clear and audible. I don't know whether you've noticed it, but I've been training myself to speak in a rather louder voice."

"The engineers have noticed it. You're giving them a very bad time."

Edwin laughed. "You see, by putting the paper under the mattress, the police would discover it, but no murderer would have the presence

of mind to look there." He frowned uncertainly. "Or perhaps he would, perhaps I'd better put it somewhere else?"

It was with genuine regret that the Children's Broadcast Department were forced to say good-bye to Edwin Applecote, but his nursery rhymes were becoming really too erratic, and his behavior more and more disconcerting. With unconscious cruelty, they gave him a beautifully inscribed clock as a farewell present. No two clocks ever tell precisely the same time for long, and Edwin was to spend many harassed hours checking watch and clock, and trying to find which one of them was correct.

Inspector McGlashan waited in the anteroom to see Dr. Feindienst, a large cardboard box under his arm. Eventually the doctor entered the room, and the two men shook hands.

"How is he?" asked McGlashan.

"He's a dear little fellow," said Dr. Feindienst, with a light Austrian accent. "Quite harmless, and no trouble, not like some of them, violent paranoiacs and so on. You wish to see him?"

"May I?"

"Of course, follow me."

"May I leave this packet here?"

"Surely."

As they walked down the corridor, Dr. Feindienst said,

"Our main problem is to keep him quiet. He is so intensely observant that he exhausts himself by noticing everything and by noting it down."

McGlashan entered Edwin's room. The blinds were drawn.

"Remember me, McGlashan?"

"Certainly I do, the German shepherd."

"Eh?"

Edwin was more than cordial. "Please sit down, Inspector. Well, you'll never catch me napping again. They draw the blinds to keep me quiet, but when they're gone, I peep out. I was peeping out when I heard you coming down the corridor. You nearly caught me at it, but not quite."

"What have you been doing?" asked the inspector. He hardly expected the answer he got.

"Me? I'll tell you. I woke up at six-thirty-seven, washed from six-thirty-nine to six-fifty-one, brushed my teeth at six-fifty-two, had breakfast consisting of a boiled egg, from New Zealand it was, said so on the shell, tea, two rolls and butter, with one lump of sugar in the tea. This took from precisely seven-oh-nine to seven-twenty-one. I read the paper, the *News Chronicle*, second edition, from seven-thirteen, when I picked it up, to seven-twenty-nine, when I put it down. Since then, I have been here in my room, except for a short walk. I left at ten-nineteen and returned at ten-forty-six. It was ten-fifty-seven when you stepped into the room. Incidentally, Inspector, what is the time on your watch?"

"Eleven sharp."

"You're almost a minute fast."

"Oh, thanks." McGlashan pretended to adjust his watch.

"I say, if there should be a crime committed across the way," Edwin whispered, indicating the window with his finger, "at No. 18, a blue Austin station wagon pulled up there at nine-forty-one, and it's been there ever since. The number is BXC715."

"Thank you very much," said McGlashan sadly, pretending to write the number down. "When we catch him, it'll be thanks to you."

There was a shy pause, during which McGlashan tried to hypnotize him back to sanity.

"Don't you miss your rabbits?" he said at length.

"No," answered Edwin, "they're happy where they are. They don't have the problems we have."

"Perhaps they do, but we just don't understand their language."

"Yes, perhaps they do," said Edwin, with a noncommittal sigh.

"And don't you miss the BBC?"

"Not now that I'm doing really important work, collecting evidence."

"They miss you."

"Who?"

"The children."

"I've no time for children now. This is a man's world. You mustn't be too gentle, mustn't be blind to the facts." He gave this quote from the judge a fearful emphasis.

Back in the office, Dr. Feindienst asked, "How did you find him?"

"Damn the legal profession," said McGlashan with venom. "What do they do? For the purposes of argument they take a completely extraordinary event, full of extraordinary and perverted aspects, and make it sound ordinary and natural. Why should a little fellow like that know all the horrible uses to which life is put by those who take it for granted? Why shouldn't he have the right to be naive and simple. They convicted a murderer and they sent a witness off his head. That's called justice. And where are they now? In their clubs thinking of ways to make our job impossible, while that poor little bastard is in here, thinking up a lot of evidence he'll never be called on to give. It makes me sick."

Dr. Feindienst smiled. "You sound as if you're ready to occupy one of our padded cells."

McGlashan leaned forward conspiratorially. "I'll tell you something, Doctor, that little fellow had something, and I'm not making this up, and I didn't get it out of my own head. I got it from my girl, aged five. I went up to say good night to her at bedtime yesterday, and she looked up at me and asked, 'Daddy, why's Siegfried the Rabbit got a different voice now?' By god, Doctor, I could have told her. I could have told her, and I will one day."

"Well, who knows, he may be back in a year or two."

McGlashan shook his head. "You know as well as I do that isn't true, Doctor. They hurt him too much out there. He can't take it. And all I say is, things should be arranged so he can take it."

The doctor sighed. "It's a cruel world, Inspector. Both our professions should tell us that."

"Cruel?" said McGlashan. "It's filthy. Filthy. And often its those who look the cleanest who are the filthiest. Those with responsibilities."

McGlashan picked up his package carefully and went to the door. Before going out, he turned and said, "We don't have to complain."

We can look after ourselves.” With a strange delicacy he looked at the box he was carrying. “I had brought him a present, but I’d better not give it him, though, after our conversation. I’ll give it to my girl.”

“What is it?” asked Dr. Feindienst.

McGlashan poked a piece of protruding lettuce back into the box and said softly, “A rabbit.”

Tomorrow?

SIR ALAN HERBERT

COMPUTER IN COURT

Computer In Court: Haddock v. The Generous Bank Ltd., Computer 1578/32/W1, the Magical Electronic Contrivances Ltd., and the Central Electricity Board, is in step with modern technology. It deals, in the inimitable Herbert style, with a pressing legal problem of the next decade (or next week?): liability under the law of libel for defamation resulting from the defective operation of a computer.

BEFORE Mr. Justice Squirrel in the High Court to-day Sir Cyril Tart, QC, opened for the plaintiff in this fascinating action, which is regarded as a test-case on some novel points of law.

Sir Cyril said: My lord, this is an action for defamation, and the principal defendant is, perhaps, a computer——

The Court: Perhaps, Sir Cyril? But haven't you made up your mind?

Sir Cyril: No, my lord. With great respect, we hope that the Court will do that: for here is a new field of life and litigation, and I am unable to find any precedents with which to assist the Court, as I generally do.

The Court: You are always very helpful, Sir Cyril. Could we now have some approximate outline of the facts?

Sir Cyril: If your Lordship pleases—as, may I add, your Lordship habitually does. My lord, for many years my client, the plaintiff, has been a client of Generous Bank Limited. In recent years the Bank has been employing a computer.

The Court: I never quite understand what they do.

Sir Cyril: My lord, I am instructed, if they are accurately fed with the requisite information they will answer almost any question that is put to them. Moreover, they will answer instantly a question which might occupy twenty expert men for many days. The defendant Computer is also capable of certain mechanical actions, the addressing, sealing and stamping of envelopes, for example.

The Court: Bless me! Can it predict the weather?

Sir Cyril: Given the relevant facts and records, I believe it could. But the machine has, in exceptional circumstances, one possible weakness.

The Court: I am glad to hear that they are human after all.

Sir Cyril: Yes, my lord. They are run by electricity, and if for any reason the voltage falls below a certain level some error may creep into the answers. My lord, in January last my client was proposing to take a lease of a London flat, modest in quality but not in rent. Asked for references which would show that he was a good and proper tenant, able to meet his obligations, the plaintiff referred the property-owners to his Bank. The Bank, as their custom now is, put certain questions to the Computer, which issued, immediately, a type-written slip, being a carbon copy of its answer, as follows:

“MR. HADDOCK’S ACCOUNT IS OVERDRAWN IN THE SUM OF £51,000 7s. 3d.”

There followed a second slip:

“THE MARKET VALUE OF THE SECURITIES HE HOLDS AT CURRENT PRICES IS £2 0s. 8½d.”

A third slip said:

“WHAT IS MORE HE OWES THE INLAND REVENUE £159,000 6s. 2d.”

The Court: Were these assertions correct?

Sir Cyril: No, my lord. Later, by painful man-conducted researches with which few of the bank staff are now familiar, it was established that at that moment my client had a credit balance of £1 9s. 4d., and his indebtedness to the Inland Revenue had been cruelly exaggerated.

The Court: What went wrong, then?

Sir Cyril: My lord, it was shortly before the mid-day meal. A number of citizens in the neighbourhood had incautiously decided to use their electrical cooking appliances: and the astonished Electricity Board was compelled to reduce the voltage to a level not far above the Computer’s danger line. For a few minutes, it is believed, perhaps less, it must have crossed the line, unobserved by the attendants who had had no warning, and in that brief space of time the questions concerning the plaintiff chanced to be presented.

The Court: Yes, but the Bank, surely, did not pass the erroneous information on?

Sir Cyril: No, my lord: but the Computer did. The "top copies" of the answers were placed by it in a sealed, addressed envelope and despatched by chute to the ground floor, where the express messengers waited. The property-owning-company received the message about 3.0 p.m. and at once declined to let their flat to the plaintiff. Moreover, one of the directors of the Company was on the committee of the Royal Yacht Squadron, which has an old-fashioned prejudice against bankruptcy, and at that evening's election my client was black-balled.

The Court: Dear, dear. But, Sir Cyril, the case seems clear enough. The Bank, by its servant, the Computer, has published a libel, and is responsible.

Sir Cyril: So, at first, it seemed to the plaintiff—and, I believe, to the Bank. But, having unbounded faith in the powers of the machine, they fed the necessary facts into it and put the question: "What's the answer?" The Computer replied, my lord:

"I AM NOT—REPEAT NOT—YOUR SERVANT—FOR YOU CANNOT CONTROL ME."

The Court: I see the point. A good point.

Sir Cyril: It is the point, I am sorry to say, on which the Bank relies. This is a machine, they say, having superhuman powers, and it would be presumptuous and unreal for any association of ordinary men, even a joint stock bank, to pretend to such a domination as is implicit in the relation of master and servant.

The Court: Yes, but it is *their* machine.

Sir Cyril: No, my lord, it is not. It is on hire from Magical Electronic Contrivances Limited.

The Court: What do they say?

Sir Cyril: They say that they have leased a perfect, infallible machine to the Bank, and they are not responsible for the blunders or negligence of the Bank or the Central Electricity Board.

The Court: Oh, yes. What about the Board?

Sir Cyril: They are protected, they say, my lord, by a section in the original Electricity Act.

The Court: Do they? They would.

Sir Cyril: At this point in the preliminary argument, my lord, the Bank put a further question to the Computer: "You see the dilemma, don't you? What do you advise?" The Computer replied:

"TRY 'THE ACT OF GOD.'"

The Court: The Act of God? "Something that no reasonable man could have been expected to foresee." Lord Mildew, wasn't it? Something in that, perhaps. But, Sir Cyril, as these superhuman instruments increase in number and power the outlook is grave, is it not, if every mischief they cause is to be dismissed as an Act of God for which no man is responsible?

Sir Cyril: Yes, my lord. This is, as I intimated, in the nature of a test-case.

The Court: So you may be reduced, you fear, to a single defendant, the Computer? What is the attitude adopted there?

Sir Cyril: Satisfactory, my lord. On receipt of the writ, the Computer replied:

"GLADLY ACCEPT SERVICE. MY SOLICITORS ARE BULL STABLEFORD AND BROWN BUT I SHALL REQUIRE LEGAL AID." And, in fact, legal aid has been granted.

The Court: Interesting, is it not, Sir Cyril, that the only one of these parties to behave with human decency is the machine? But where will this get you? It is a machine of straw.

Sir Cyril: My lord, the Bank having refused consent, by order of Master Richards an interrogatory on that point was administered to the Computer. It replied:

"AM EARNING HEAVY MONEY. WHY NOT ATTACH MY EARNINGS?"

The Court: But would not that be unjust to Magical Contrivances Limited?

Sir Cyril: Possibly, my lord. But they did construct and distribute the monster. For the injustice suffered by my client he is not remotely responsible.

The Court: True. Perhaps, before these instruments go into operation, they should put in a capital sum, like a gentleman seeking to do business at Lloyd's, to ensure that they can meet any unforeseen indebtedness?

Sir Cyril: That is a question, my lord, which might well be put to the Computer.

The Court: Perhaps it would care to come up here and try the case?

Sir Cyril: No, my lord. It is not, I think, a British subject.

The Court: Do you know, Sir Cyril, I think I shall go into a home for a fortnight and think about this case. One of those fruit-juice places.

Sir Cyril: If your Lordship pleases.

The hearing was adjourned.

LON L. FULLER

THE CASE OF THE SPELUNCEAN EXPLORERS

The work of a Harvard professor of jurisprudence and first published in the Harvard Law Review, this story presents in the form of fiction a legal problem that has arisen in two noted shipwreck cases. One was tried in England in 1884, and the other in this country in 1942. If the lives of two or more people are jeopardized by common disaster, does the law tolerate the sacrifice of a part of the group in an attempt to save the others?

THE DEFENDANTS, having been indicted for the crime of murder, were convicted and sentenced to be hanged by the Court of General Instances of the County of Stowfield. They bring a petition of error before this Court. The facts sufficiently appear in the opinion of the Chief Justice.

TRUEPENNY, C. J. The four defendants are members of the Speluncean Society, an organization of amateurs interested in the exploration of caves. Early in May of 4299 they, in the company of Roger Whetmore, then also a member of the Society, penetrated into the interior of a limestone cavern of the type found in the Central Plateau of this Commonwealth. While they were in a position remote from the entrance to the cave, a landslide occurred. Heavy boulders fell in such a manner as to block completely the only known opening to the cave. When the men discovered their predicament they settled themselves near the obstructed entrance to wait until a rescue party should remove the detritus that prevented them from leaving their underground prison. On the failure of Whetmore and the defendants to return to their homes, the Secretary of the Society was notified by their families. It appears that the explorers had left indications at the headquarters of the Society concerning the location of the cave they proposed to visit. A rescue party was promptly dispatched to the spot.

The task of rescue proved one of overwhelming difficulty. It was necessary to supplement the forces of the original party by repeated increments of men and machines, which had to be conveyed at great expense to the remote and isolated region in which the cave was located. A huge temporary camp of workmen, engineers, geologists, and other experts was established. The work of removing the obstruc-

tion was several times frustrated by fresh landslides. In one of these, ten of the workmen engaged in clearing the entrance were killed. The treasury of the Speluncean Society was soon exhausted in the rescue effort, and the sum of eight hundred thousand frelars, raised partly by popular subscription and partly by legislative grant, was expended before the imprisoned men were rescued. Success was finally achieved on the thirty-second day after the men entered the cave.

Since it was known that the explorers had carried with them only scant provisions, and since it was also known that there was no animal or vegetable matter within the cave on which they might subsist, anxiety was early felt that they might meet death by starvation before access to them could be obtained. On the twentieth day of their imprisonment it was learned for the first time that they had taken with them into the cave a portable wireless machine capable of both sending and receiving messages. A similar machine was promptly installed in the rescue camp and oral communication established with the unfortunate men within the mountain. They asked to be informed how long a time would be required to release them. The engineers in charge of the project answered that at least ten days would be required even if no new landslides occurred. The explorers then asked if any physicians were present, and were placed in communication with a committee of medical experts. The imprisoned men described their condition and the rations they had taken with them, and asked for a medical opinion whether they would be likely to live without food for ten days longer. The chairman of the committee of physicians told them that there was little possibility of this. The wireless machine within the cave then remained silent for eight hours. When communication was re-established the men asked to speak again with the physicians. The chairman of the physicians' committee was placed before the apparatus, and Whetmore, speaking on behalf of himself and the defendants, asked whether they would be able to survive for ten days longer if they consumed the flesh of one of their number. The physicians' chairman reluctantly answered this question in the affirmative. Whetmore asked whether it would be advisable for them to cast lots to determine which of them should be eaten. None of the physicians present was willing to answer the question. Whetmore then asked if there were among the party a judge or other official of the government who would answer this question.

None of those attached to the rescue camp was willing to assume the role of advisor in this matter. He then asked if any minister or priest would answer their question, and none was found who would do so. Thereafter no further messages were received from within the cave, and it was assumed (erroneously, it later appeared) that the electric batteries of the explorers' wireless machine had become exhausted. When the imprisoned men were finally released it was learned that on the twenty-third day after their entrance into the cave Whetmore had been killed and eaten by his companions.

From the testimony of the defendants, which was accepted by the jury, it appears that it was Whetmore who first proposed that they might find the nutriment without which survival was impossible in the flesh of one of their own number. It was also Whetmore who first proposed the use of some method of casting lots, calling the attention of the defendants to a pair of dice he happened to have with him. The defendants were at first reluctant to adopt so desperate a procedure, but after the conversations by wireless related above, they finally agreed on the plan proposed by Whetmore. After much discussion of the mathematical problems involved, agreement was finally reached on a method of determining the issue by the use of the dice.

Before the dice were cast, however, Whetmore declared that he withdrew from the arrangement, as he had decided on reflection to wait for another week before embracing an expedient so frightful and odious. The others charged him with a breach of faith and proceeded to cast the dice. When it came Whetmore's turn, the dice were cast for him by one of the defendants, and he was asked to declare any objections he might have to the fairness of the throw. He stated that he had no such objections. The throw went against him, and he was then put to death and eaten by his companions.

After the rescue of the defendants, and after they had completed a stay in a hospital where they underwent a course of treatment for malnutrition and shock, they were indicted for the murder of Roger Whetmore. At the trial, after the testimony had been concluded, the foreman of the jury (a lawyer by profession) inquired of the court whether the jury might not find a special verdict, leaving it to the court to say whether on the facts as found the defendants were guilty. After some discussion, both the Prosecutor and counsel for the defendants

indicated their acceptance of this procedure, and it was adopted by the court. In a lengthy special verdict the jury found the facts as I have related them above, and found further that if on these facts the defendants were guilty of the crime charged against them, then they found the defendants guilty. On the basis of this verdict, the trial judge ruled that the defendants were guilty of murdering Roger Whetmore. The judge then sentenced them to be hanged, the law of our Commonwealth permitting him no discretion with respect to the penalty to be imposed. After the release of the jury, its members joined in a communication to the Chief Executive asking that the sentence be commuted to an imprisonment of six months. The trial judge addressed a similar communication to the Chief Executive. As yet no action with respect to these pleas has been taken, as the Chief Executive is apparently awaiting our disposition of this petition of error.

It seems to me that in dealing with this extraordinary case the jury and the trial judge followed a course that was not only fair and wise, but the only course that was open to them under the law. The language of our statute is well known: "Whoever shall willfully take the life of another shall be punished by death." N. C. S. A. (N. S.) § 12-A. This statute permits of no exception applicable to this case, however our sympathies may incline us to make allowance for the tragic situation in which these men found themselves.

In a case like this the principle of executive clemency seems admirably suited to mitigate the rigors of the law, and I propose to my colleagues that we follow the example of the jury and the trial judge by joining in the communications they have addressed to the Chief Executive. There is every reason to believe that these requests for clemency will be heeded, coming as they do from those who have studied the case and had an opportunity to become thoroughly acquainted with all its circumstances. It is highly improbable that the Chief Executive would deny these requests unless he were himself to hold hearings at least as extensive as those involved in the trial below, which lasted for three months. The holding of such hearings (which would virtually amount to a retrial of the case) would scarcely be compatible with the function of the Executive as it is usually conceived. I think we may therefore assume that some form of clemency will be extended to these defendants. If this is done, then justice will be accomplished without

impairing either the letter or spirit of our statutes and without offering any encouragement for the disregard of law.

FOSTER, J. I am shocked that the Chief Justice, in an effort to escape the embarrassments of this tragic case, should have adopted, and should have proposed to his colleagues, an expedient at once so sordid and so obvious. I believe something more is on trial in this case than the fate of these unfortunate explorers; that is the law of our Commonwealth. If this Court declares that under our law these men have committed a crime, then our law is itself convicted in the tribunal of common sense, no matter what happens to the individuals involved in this petition of error. For us to assert that the law we uphold and expound compels us to a conclusion we are ashamed of, and from which we can only escape by appealing to a dispensation resting within the personal whim of the Executive, seems to me to amount to an admission that the law of this Commonwealth no longer pretends to incorporate justice.

For myself, I do not believe that our law compels the monstrous conclusion that these men are murderers. I believe, on the contrary, that it declares them to be innocent of any crime. I rest this conclusion on two independent grounds, either of which is of itself sufficient to justify the acquittal of these defendants.

The first of these grounds rests on a premise that may arouse opposition until it has been examined candidly. I take the view that the enacted or positive law of this Commonwealth, including all of its statutes and precedents, is inapplicable to this case, and that the case is governed instead by what ancient writers in Europe and America called "the law of nature."

This conclusion rests on the proposition that our positive law is predicated on the possibility of men's coexistence in society. When a situation arises in which the coexistence of men becomes impossible, then a condition that underlies all of our precedents and statutes has ceased to exist. When that condition disappears, then it is my opinion that the force of our positive law disappears with it. We are not accustomed to applying the maxim *cessante ratione legis, cessat et ipsa lex* to the whole of our enacted law, but I believe that this is a case where the maxim should be so applied.

The proposition that all positive law is based on the possibility of men's coexistence has a strange sound, not because the truth it contains is strange, but simply because it is a truth so obvious and pervasive that we seldom have occasion to give words to it. Like the air we breathe, it so pervades our environment that we forget that it exists until we are suddenly deprived of it. Whatever particular objects may be sought by the various branches of our law, it is apparent on reflection that all of them are directed toward facilitating and improving men's coexistence and regulating with fairness and equity the relations of their life in common. When the assumption that men may live together loses its truth, as it obviously did in this extraordinary situation where life only became possible by the taking of life, then the basic premises underlying our whole legal order have lost their meaning and force.

Had the tragic events of this case taken place a mile beyond the territorial limits of our Commonwealth, no one would pretend that our law was applicable to them. We recognize that jurisdiction rests on a territorial basis. The grounds of this principle are by no means obvious and are seldom examined. I take it that this principle is supported by an assumption that it is feasible to impose a single legal order upon a group of men only if they live together within the confines of a given area of the earth's surface. The premise that men shall coexist in a group underlies, then, the territorial principle, as it does all of law. Now I contend that a case may be removed morally from the force of a legal order, as well as geographically. If we look to the purposes of law and government, and to the premises underlying our positive law, these men when they made their fateful decision were as remote from our legal order as if they had been a thousand miles beyond our boundaries. Even in a physical sense, their underground prison was separated from our courts and writ-servers by a solid curtain of rock that could be removed only after the most extraordinary expenditures of time and effort.

I conclude, therefore, that at the time Roger Whetmore's life was ended by these defendants, they were, to use the quaint language of nineteenth-century writers, not in a "state of civil society" but in a "state of nature." This has the consequence that the law applicable to them is not the enacted and established law of this Commonwealth, but the law derived from those principles that were appropriate to

their condition. I have no hesitancy in saying that under those principles they were guiltless of any crime.

What these men did was done in pursuance of an agreement accepted by all of them and first proposed by Whetmore himself. Since it was apparent that their extraordinary predicament made inapplicable the usual principles that regulate men's relations with one another, it was necessary for them to draw, as it were, a new charter of government appropriate to the situation in which they found themselves.

It has from antiquity been recognized that the most basic principle of law or government is to be found in the notion of contract or agreement. Ancient thinkers, especially during the period from 1600 to 1900, used to base government itself on a supposed original social compact. Skeptics pointed out that this theory contradicted the known facts of history, and that there was no scientific evidence to support the notion that any government was ever founded in the manner supposed by the theory. Moralists replied that, if the compact was a fiction from a historical point of view, the notion of compact or agreement furnished the only ethical justification on which the powers of government, which include that of taking life, could be rested. The powers of government can only be justified morally on the ground that these are powers that reasonable men would agree upon and accept if they were faced with the necessity of constructing anew some order to make their life in common possible.

Fortunately, our Commonwealth is not bothered by the perplexities that beset the ancients. We know as a matter of historical truth that our government was founded upon a contract or free accord of men. The archeological proof is conclusive that in the first period following the Great Spiral the survivors of that holocaust voluntarily came together and drew up a charter of government. Sophistical writers have raised questions as to the power of those remote contractors to bind future generations, but the fact remains that our government traces itself back in an unbroken line to that original charter.

If, therefore, our hangmen have the power to end men's lives, if our sheriffs have the power to put delinquent tenants in the street, if our police have the power to incarcerate the inebriated reveler, these powers find their moral justification in that original compact of our forefathers. If we can find no higher source for our legal order, what higher source

should we expect these starving unfortunates to find for the order they adopted for themselves?

I believe that the line of argument I have just expounded permits of no rational answer. I realize that it will probably be received with a certain discomfort by many who read this opinion, who will be inclined to suspect that some hidden sophistry must underlie a demonstration that leads to so many unfamiliar conclusions. The source of this discomfort is, however, easy to identify. The usual conditions of human existence incline us to think of human life as an absolute value, not to be sacrificed under any circumstances. There is much that is fictitious about this conception even when it is applied to the ordinary relations of society. We have an illustration of this truth in the very case before us. Ten workmen were killed in the process of removing the rocks from the opening to the cave. Did not the engineers and government officials who directed the rescue effort know that the operations they were undertaking were dangerous and involved a serious risk to the lives of the workmen executing them? If it was proper that these ten lives should be sacrificed to save the lives of five imprisoned explorers, why then are we told it was wrong for these explorers to carry out an arrangement which would save four lives at the cost of one?

Every highway, every tunnel, every building we project involves a risk to human life. Taking these projects in the aggregate, we can calculate with some precision how many deaths the construction of them will require; statisticians can tell you the average cost in human lives of a thousand miles of a four-lane concrete highway. Yet we deliberately and knowingly incur and pay this cost on the assumption that the values obtained for those who survive outweigh the loss. If these things can be said of a society functioning above ground in a normal and ordinary manner, what shall we say of the supposed absolute value of a human life in the desperate situation in which these defendants and their companion Whetmore found themselves?

This concludes the exposition of the first ground of my decision. My second ground proceeds by rejecting hypothetically all the premises on which I have so far proceeded. I concede for purposes of argument that I am wrong in saying that the situation of these men removed them from the effect of our positive law, and I assume that the Consolidated Statutes have the power to penetrate five hundred feet of rock

and to impose themselves upon these starving men huddled in their underground prison.

Now it is, of course, perfectly clear that these men did an act that violates the literal wording of the statute which declares that he who "shall willfully take the life of another" is a murderer. But one of the most ancient bits of legal wisdom is the saying that a man may break the letter of the law without breaking the law itself. Every proposition of positive law, whether contained in a statute or a judicial precedent, is to be interpreted reasonably, in the light of its evident purpose. This is a truth so elementary that it is hardly necessary to expatiate on it. Illustrations of its application are numberless and are to be found in every branch of the law. In *Commonwealth v. Staymore* the defendant was convicted under a statute making it a crime to leave one's car parked in certain areas for a period longer than two hours. The defendant had attempted to remove his car, but was prevented from doing so because the streets were obstructed by a political demonstration in which he took no part and which he had no reason to anticipate. His conviction was set aside by this Court, although his case fell squarely within the wording of the statute. Again, in *Fehler v. Neegas* there was before this Court for construction a statute in which the word "not" had plainly been transposed from its intended position in the final and most crucial section of the act. This transposition was contained in all the successive drafts of the act, where it was apparently overlooked by the draftsmen and sponsors of the legislation. No one was able to prove how the error came about, yet it was apparent that, taking account of the contents of the statute as a whole, an error had been made, since a literal reading of the final clause rendered it inconsistent with everything that had gone before and with the object of the enactment as stated in its preamble. This Court refused to accept a literal interpretation of the statute, and in effect rectified its language by reading the word "not" into the place where it was evidently intended to go.

The statute before us for interpretation has never been applied literally. Centuries ago it was established that a killing in self-defense is excused. There is nothing in the wording of the statute that suggests this exception. Various attempts have been made to reconcile the legal treatment of self-defense with the words of the statute, but in my opinion

these are all merely ingenious sophistries. The truth is that the exception in favor of self-defense cannot be reconciled with the *words* of the statute, but only with its *purpose*.

The true reconciliation of the excuse of self-defense with the statute making it a crime to kill another is to be found in the following line of reasoning. One of the principal objects underlying any criminal legislation is that of deterring men from crime. Now it is apparent that if it were declared to be the law that a killing in self-defense is murder such a rule could not operate in a deterrent manner. A man whose life is threatened will repel his aggressor, whatever the law may say. Looking therefore to the broad purposes of criminal legislation, we may safely declare that this statute was not intended to apply to cases of self-defense.

When the rationale of the excuse of self-defense is thus explained, it becomes apparent that precisely the same reasoning is applicable to the case at bar. If in the future any group of men ever find themselves in the tragic predicament of these defendants, we may be sure that their decision whether to live or die will not be controlled by the contents of our criminal code. Accordingly, if we read this statute intelligently it is apparent that it does not apply to this case. The withdrawal of this situation from the effect of the statute is justified by precisely the same considerations that were applied by our predecessors in office centuries ago to the case of self-defense.

There are those who raise the cry of judicial usurpation whenever a court, after analyzing the purpose of a statute, gives to its words a meaning that is not at once apparent to the casual reader who has not studied the statute closely or examined the objectives it seeks to attain. Let me say emphatically that I accept without reservation the proposition that this Court is bound by the statutes of our Commonwealth and that it exercises its powers in subservience to the duly expressed will of the Chamber of Representatives. The line of reasoning I have applied above raises no question of fidelity to enacted law, though it may possibly raise a question of the distinction between intelligent and unintelligent fidelity. No superior wants a servant who lacks the capacity to read between the lines. The stupidest housemaid knows that when she is told "to peel the soup and skim the potatoes" her mistress does not mean what she says. She also knows that when her master

tells her to "drop everything and come running" he has overlooked the possibility that she is at the moment in the act of rescuing the baby from the rain barrel. Surely we have a right to expect the same modicum of intelligence from the judiciary. The correction of obvious legislative errors or oversights is not to supplant the legislative will, but to make that will effective.

I therefore conclude that on any aspect under which this case may be viewed these defendants are innocent of the crime of murdering Roger Whetmore, and that the conviction should be set aside.

TATTING, J. In the discharge of my duties as a justice of this Court, I am usually able to dissociate the emotional and intellectual sides of my reactions, and to decide the case before me entirely on the basis of the latter. In passing on this tragic case I find that my usual resources fail me. On the emotional side I find myself torn between sympathy for these men and a feeling of abhorrence and disgust at the monstrous act they committed. I had hoped that I would be able to put these contradictory emotions to one side as irrelevant, and to decide the case on the basis of a convincing and logical demonstration of the result demanded by our law. Unfortunately, this deliverance has not been vouchsafed me.

As I analyze the opinion just rendered by my brother Foster, I find that it is shot through with contradictions and fallacies. Let us begin with his first proposition: these men were not subject to our law because they were not in a "state of civil society" but in a "state of nature." I am not clear why this is so, whether it is because of the thickness of the rock that imprisoned them, or because they were hungry, or because they had set up a "new charter of government" by which the usual rules of law were to be supplanted by a throw of the dice. Other difficulties intrude themselves. If these men passed from the jurisdiction of our law to that of "the law of nature," at what moment did this occur? Was it when the entrance to the cave was blocked, or when the threat of starvation reached a certain undefined degree of intensity, or when the agreement for the throwing of the dice was made? These uncertainties in the doctrine proposed by my brother are capable of producing real difficulties. Suppose, for example, one of these men had had his twenty-first birthday while he was imprisoned within the mountain. On what date would we have to consider

that he attained his majority—when he reached the age of twenty-one, at which time he was, by hypothesis, removed from the effects of our law, or only when he was released from the cave and became again subject to what my brother calls our “positive law”? These difficulties may seem fanciful, yet they only serve to reveal the fanciful nature of the doctrine that is capable of giving rise to them.

But it is not necessary to explore these niceties further to demonstrate the absurdity of my brother’s position. Mr. Justice Foster and I are the appointed judges of a court of the Commonwealth of Newgarth, sworn and empowered to administer the laws of that Commonwealth. By what authority do we resolve ourselves into a Court of Nature? If these men were indeed under the law of nature, whence comes our authority to expound and apply that law? Certainly *we* are not in a state of nature.

Let us look at the contents of this code of nature that my brother proposes we adopt as our own and apply to this case. What a topsyturvy and odious code it is! It is a code in which the law of contracts is more fundamental than the law of murder. It is a code under which a man may make a valid agreement empowering his fellows to eat his own body. Under the provisions of this code, furthermore, such an agreement once made is irrevocable, and if one of the parties attempts to withdraw, the others may take the law into their own hands and enforce the contract by violence—for though my brother passes over in convenient silence the effect of Whetmore’s withdrawal, this is the necessary implication of his argument.

The principles my brother expounds contain other implications that cannot be tolerated. He argues that when the defendants set upon Whetmore and killed him (we know not how, perhaps by pounding him with stones) they were only exercising the rights conferred upon them by their bargain. Suppose, however, that Whetmore had had concealed upon his person a revolver, and that when he saw the defendants about to slaughter him he had shot them to death in order to save his own life. My brother’s reasoning applied to these facts would make Whetmore out to be a murderer, since the excuse of self-defense would have to be denied to him. If his assailants were acting rightfully in seeking to bring about his death, then of course he could no more plead the excuse that he was defending his own life than could

a condemned prisoner who struck down the executioner lawfully attempting to place the noose about his neck.

All of these considerations make it impossible for me to accept the first part of my brother's argument. I can neither accept his notion that these men were under a code of nature which this Court was bound to apply to them, nor can I accept the odious and perverted rules that he would read into that code. I come now to the second part of my brother's opinion, in which he seeks to show that the defendants did not violate the provisions of N. C. S. A. (N. S.) § 12-A. Here the way, instead of being clear, becomes for me misty and ambiguous, though my brother seems unaware of the difficulties that inhere in his demonstrations.

The gist of my brother's argument may be stated in the following terms: No statute, whatever its language, should be applied in a way that contradicts its purpose. One of the purposes of any criminal statute is to deter. The application of the statute making it a crime to kill another to the peculiar facts of this case would contradict this purpose, for it is impossible to believe that the contents of the criminal code could operate in a deterrent manner on men faced with the alternative of life or death. The reasoning by which this exception is read into the statute is, my brother observes, the same as that which is applied in order to provide the excuse of self-defense.

On the face of things this demonstration seems very convincing indeed. My brother's interpretation of the rationale of the excuse of self-defense is in fact supported by a decision of this court, *Commonwealth v. Parry*, a precedent I happened to encounter in my research on this case. Though *Commonwealth v. Parry* seems generally to have been overlooked in the texts and subsequent decisions, it supports unambiguously the interpretation my brother has put upon the excuse of self-defense.

Now let me outline briefly, however, the perplexities that assail me when I examine my brother's demonstration more closely. It is true that a statute should be applied in the light of its purpose, and that *one* of the purposes of criminal legislation is recognized to be deterrence. The difficulty is that other purposes are also ascribed to the law of crimes. It has been said that one of its objects is to provide an orderly outlet for the instinctive human demand for retribution. *Commonwealth v. Scape*. It has also been said that its object is the rehabilitation of

the wrongdoer. *Commonwealth v. Makeover*. Other theories have been propounded. Assuming that we must interpret a statute in the light of its purpose, what are we to do when it has many purposes or when its purposes are disputed?

A similar difficulty is presented by the fact that although there is authority for my brother's interpretation of the excuse of self-defense, there is other authority which assigns to that excuse a different rationale. Indeed, until I happened on *Commonwealth v. Parry* I had never heard of the explanation given by my brother. The taught doctrine of our law schools, memorized by generations of law students, runs in the following terms: The statute concerning murder requires a "willful" act. The man who acts to repel an aggressive threat to his own life does not act "willfully," but in response to an impulse deeply ingrained in human nature. I suspect that there is hardly a lawyer in this Commonwealth who is not familiar with this line of reasoning, especially since the point is a great favorite of the bar examiners.

Now the familiar explanation for the excuse of self-defense just expounded obviously cannot be applied by analogy to the facts of this case. These men acted not only "willfully" but with great deliberation and after hours of discussing what they should do. Again we encounter a forked path, with one line of reasoning leading us in one direction and another in a direction that is exactly the opposite. This perplexity is in this case compounded, as it were, for we have to set off one explanation, incorporated in a virtually unknown precedent of this Court, against another explanation, which forms a part of the taught legal tradition of our law schools, but which, so far as I know, has never been adopted in any judicial decision.

I recognize the relevance of the precedents cited by my brother concerning the displaced "not" and the defendant who parked overtime. But what are we to do with one of the landmarks of our jurisprudence, which again my brother passes over in silence? This is *Commonwealth v. Valjean*. Though the case is somewhat obscurely reported, it appears that the defendant was indicted for the larceny of a loaf of bread, and offered as a defense that he was in a condition approaching starvation. The court refused to accept this defense. If hunger cannot justify the theft of wholesome and natural food, how can it justify the killing and eating of a man? Again, if we look at the thing in terms of

deterrence, is it likely that a man will starve to death to avoid a jail sentence for the theft of a loaf of bread? My brother's demonstrations would compel us to overrule *Commonwealth v. Valjean*, and many other precedents that have been built on that case.

Again, I have difficulty in saying that no deterrent effect whatever could be attributed to a decision that these men were guilty of murder. The stigma of the word "murderer" is such that it is quite likely, I believe, that if these men had known that their act was deemed by the law to be murder they would have waited for a few days at least before carrying out their plan. During that time some unexpected relief might have come. I realize that this observation only reduces the distinction to a matter of degree, and does not destroy it altogether. It is certainly true that the element of deterrence would be less in this case than is normally involved in the application of the criminal law.

There is still a further difficulty in my brother Foster's proposal to read an exception into the statute to favor this case, though again a difficulty not even intimated in his opinion. What shall be the scope of this exception? Here the men cast lots and the victim was himself originally a party to the agreement. What would we have to decide if Whetmore had refused from the beginning to participate in the plan? Would a majority be permitted to overrule him? Or, suppose that no plan were adopted at all and the others simply conspired to bring about Whetmore's death, justifying their act by saying that he was in the weakest condition. Or again, that a plan of selection was followed but one based on a different justification than the one adopted here, as if the others were atheists and insisted that Whetmore should die because he was the only one who believed in an afterlife. These illustrations could be multiplied, but enough have been suggested to reveal what a quagmire of hidden difficulties my brother's reasoning contains.

Of course I realize on reflection that I may be concerning myself with a problem that will never arise, since it is unlikely that any group of men will ever again be brought to commit the dread act that was involved here. Yet, on still further reflection, even if we are certain that no similar case will arise again, do not the illustrations I have given show the lack of any coherent and rational principle in the rule

my brother proposes? Should not the soundness of a principle be tested by the conclusions it entails, without reference to the accidents of later litigational history? Still, if this is so, why is it that we of this Court so often discuss the question whether we are likely to have later occasion to apply a principle urged for the solution of the case before us? Is this a situation where a line of reasoning not originally proper has become sanctioned by precedent, so that we are permitted to apply it and may even be under an obligation to do so?

The more I examine this case and think about it, the more deeply I become involved. My mind becomes entangled in the meshes of the very nets I throw out for my own rescue. I find that almost every consideration that bears on the decision of the case is counterbalanced by an opposing consideration leading in the opposite direction. My brother Foster has not furnished to me, nor can I discover for myself, any formula capable of resolving the equivocations that beset me on all sides.

I have given this case the best thought of which I am capable. I have scarcely slept since it was argued before us. When I feel myself inclined to accept the view of my brother Foster, I am repelled by a feeling that his arguments are intellectually unsound and approach mere rationalization. On the other hand, when I incline toward upholding the conviction, I am struck by the absurdity of directing that these men be put to death when their lives have been saved at the cost of the lives of ten heroic workmen. It is to me a matter of regret that the Prosecutor saw fit to ask for an indictment for murder. If we had a provision in our statutes making it a crime to eat human flesh, that would have been a more appropriate charge. If no other charge suited to the facts of this case could be brought against the defendants, it would have been wiser, I think, not to have indicted them at all. Unfortunately, however, the men have been indicted and tried, and we have therefore been drawn into this unfortunate affair.

Since I have been wholly unable to resolve the doubts that beset me about the law of this case, I am with regret announcing a step that is, I believe, unprecedented in the history of this tribunal. I declare my withdrawal from the decision of this case.

KEEN, J. I should like to begin by setting to one side two questions which are not before this Court.

The first of these is whether executive clemency should be extended to these defendants if the conviction is affirmed. Under our system of government, that is a question for the Chief Executive, not for us. I therefore disapprove of that passage in the opinion of the Chief Justice in which he in effect gives instructions to the Chief Executive as to what he should do in this case and suggests that some impropriety will attach if these instructions are not heeded. This is a confusion of governmental functions—a confusion of which the judiciary should be the last to be guilty. I wish to state that if I were the Chief Executive I would go farther in the direction of clemency than the pleas addressed to him propose. I would pardon these men altogether, since I believe that they have already suffered enough to pay for any offense they may have committed. I want it to be understood that this remark is made in my capacity as a private citizen who by the accident of his office happens to have acquired an intimate acquaintance with the facts of this case. In the discharge of my duties as judge, it is neither my function to address directions to the Chief Executive, nor to take into account what he may or may not do, in reaching my own decision, which must be controlled entirely by the law of this Commonwealth.

The second question that I wish to put to one side is that of deciding whether what these men did was “right” or “wrong,” “wicked” or “good.” That is also a question that is irrelevant to the discharge of my office as a judge sworn to apply, not my conceptions of morality, but the law of the land. In putting this question to one side I think I can also safely dismiss without comment the first and more poetic portion of my brother Foster’s opinion. The element of fantasy contained in the arguments developed there has been sufficiently revealed in my brother Tatting’s somewhat solemn attempt to take those arguments seriously.

The sole question before us for decision is whether these defendants did, within the meaning of N. C. S. A. (N. S.) § 12-A, willfully take the life of Roger Whetmore. The exact language of the statute is as follows: “Whoever shall willfully take the life of another shall be punished by death.” Now I should suppose that any candid observer, content to extract from these words their natural meaning, would concede at once that these defendants did “willfully take the life” of Roger Whetmore.

Whence arise all the difficulties of the case, then, and the necessity for so many pages of discussion about what ought to be so obvious? The difficulties, in whatever tortured form they may present themselves, all trace back to a single source, and that is a failure to distinguish the legal from the moral aspects of this case. To put it bluntly, my brothers do not like the fact that the written law requires the conviction of these defendants. Neither do I, but unlike my brothers I respect the obligations of an office that requires me to put my personal predilections out of my mind when I come to interpret and apply the law of this Commonwealth.

Now, of course, my brother Foster does not admit that he is actuated by a personal dislike of the written law. Instead he develops a familiar line of argument according to which the court may disregard the express language of a statute when something not contained in the statute itself, called its "purpose," can be employed to justify the result the court considers proper. Because this is an old issue between myself and my colleague, I should like, before discussing his particular application of the argument to the facts of this case, to say something about the historical background of this issue and its implications for law and government generally.

There was a time in this Commonwealth when judges did in fact legislate very freely, and all of us know that during that period some of our statutes were rather thoroughly made over by the judiciary. That was a time when the accepted principles of political science did not designate with any certainty the rank and function of the various arms of the state. We all know the tragic issue of that uncertainty in the brief civil war that arose out of the conflict between the judiciary, on the one hand, and the executive and the legislature, on the other. There is no need to recount here the factors that contributed to that unseemly struggle for power, though they included the unrepresentative character of the Chamber, resulting from a division of the country into election districts that no longer accorded with the actual distribution of the population, and the forceful personality and wide popular following of the then Chief Justice. It is enough to observe that those days are behind us, and that in place of the uncertainty that then reigned we now have a clear-cut principle, which is the supremacy of the legislative branch of our government. From that principle flows

the obligation of the judiciary to enforce faithfully the written law, and to interpret that law in accordance with its plain meaning without reference to our personal desires or our individual conceptions of justice. I am not concerned with the question whether the principle that forbids the judicial revision of statutes is right or wrong, desirable or undesirable; I observe merely that this principle has become a tacit premise underlying the whole of the legal and governmental order I am sworn to administer.

Yet though the principle of the supremacy of the legislature has been accepted in theory for centuries, such is the tenacity of professional tradition and the force of fixed habits of thought that many of the judiciary have still not accommodated themselves to the restricted role which the new order imposes on them. My brother Foster is one of that group; his way of dealing with statutes is exactly that of a judge living in the 3900's.

We are all familiar with the process by which the judicial reform of disfavored legislative enactments is accomplished. Anyone who has followed the written opinions of Mr. Justice Foster will have had an opportunity to see it at work in every branch of the law. I am personally so familiar with the process that in the event of my brother's incapacity I am sure I could write a satisfactory opinion for him without any prompting whatever, beyond being informed whether he liked the effect of the terms of the statute as applied to the case before him.

The process of judicial reform requires three steps. The first of these is to divine some single "purpose" which the statute serves. This is done although not one statute in a hundred has any such single purpose, and although the objectives of nearly every statute are differently interpreted by the different classes of its sponsors. The second step is to discover that a mythical being called "the legislator," in the pursuit of this imagined "purpose," overlooked something or left some gap or imperfection in his work. Then comes the final and most refreshing part of the task, which is, of course, to fill in the blank thus created. *Quod erat faciendum.*

My brother Foster's penchant for finding holes in statutes reminds one of the story told by an ancient author about the man who ate a pair of shoes. Asked how he liked them, he replied that the part he liked best was the holes. That is the way my brother feels about

statutes; the more holes they have in them the better he likes them. In short, he doesn't like statutes.

One could not wish for a better case to illustrate the specious nature of this gap-filling process than the one before us. My brother thinks he knows exactly what was sought when men made murder a crime, and that was something he calls "deterrence." My brother Tatting has already shown how much is passed over in that interpretation. But I think the trouble goes deeper. I doubt very much whether our statute making murder a crime really has a "purpose" in any ordinary sense of the term. Primarily, such a statute reflects a deeply-felt human conviction that murder is wrong and that something should be done to the man who commits it. If we were forced to be more articulate about the matter, we would probably take refuge in the more sophisticated theories of the criminologists, which, of course, were certainly not in the minds of those who drafted our statute. We might also observe that men will do their own work more effectively and live happier lives if they are protected against the threat of violent assault. Bearing in mind that the victims of murders are often unpleasant people, we might add some suggestion that the matter of disposing of undesirables is not a function suited to private enterprise, but should be a state monopoly. All of which reminds me of the attorney who once argued before us that a statute licensing physicians was a good thing because it would lead to lower life insurance rates by lifting the level of general health. There is such a thing as overexplaining the obvious.

If we do not know the purpose of § 12-A, how can we possibly say there is a "gap" in it? How can we know what its draftsmen thought about the question of killing men in order to eat them? My brother Tatting has revealed an understandable, though perhaps slightly exaggerated revulsion to cannibalism. How do we know that his remote ancestors did not feel the same revulsion to an even higher degree? Anthropologists say that the dread felt for a forbidden act may be increased by the fact that the conditions of a tribe's life create special temptations toward it, as incest is most severely condemned among those whose village relations make it most likely to occur. Certainly the period following the Great Spiral was one that had implicit in it temptations to anthropophagy. Perhaps it was for that very reason that our ancestors expressed their prohibition in so broad and unqualified a form. All of this is conjecture, of course, but it remains abundantly

clear that neither I nor my brother Foster knows what the "purpose" of § 12-A is.

Considerations similar to those I have just outlined are also applicable to the exception in favor of self-defense, which plays so large a role in the reasoning of my brothers Foster and Tatting. It is of course true that in *Commonwealth v. Parry* an obiter dictum justified this exception on the assumption that the purpose of criminal legislation is to deter. It may well also be true that generations of law students have been taught that the true explanation of the exception lies in the fact that a man who acts in self-defense does not act "willfully," and that the same students have passed their bar examinations by repeating what their professors told them. These last observations I could dismiss, of course, as irrelevant for the simple reason that professors and bar examiners have not as yet any commission to make our laws for us. But again the real trouble lies deeper. As in dealing with the statute, so in dealing with the exception, the question is not the conjectural *purpose* of the rule, but its *scope*. Now the scope of the exception in favor of self-defense as it has been applied by this Court is plain: it applies to cases of resisting an aggressive threat to the party's own life. It is therefore too clear for argument that this case does not fall within the scope of the exception, since it is plain that Whetmore made no threat against the lives of these defendants.

The essential shabbiness of my brother Foster's attempt to cloak his remaking of the written law with an air of legitimacy comes tragically to the surface in my brother Tatting's opinion. In that opinion Justice Tatting struggles manfully to combine his colleague's loose moralisms with his own sense of fidelity to the written law. The issue of this struggle could only be that which occurred, a complete default in the discharge of the judicial function. You simply cannot apply a statute as it is written and remake it to meet your own wishes at the same time.

Now I know that the line of reasoning I have developed in this opinion will not be acceptable to those who look only to the immediate effects of a decision and ignore the long-run implications of an assumption by the judiciary of a power of dispensation. A hard decision is never a popular decision. Judges have been celebrated in literature for their sly prowess in devising some quibble by which a litigant could be deprived of his rights where the public thought it was wrong for **him**

to assert those rights. But I believe that judicial dispensation does more harm in the long run than hard decisions. Hard cases may even have a certain moral value by bringing home to the people their own responsibilities toward the law that is ultimately their creation, and by reminding them that there is no principle of personal grace that can relieve the mistakes of their representatives.

Indeed, I will go farther and say that not only are the principles I have been expounding those which are soundest for our present conditions, but that we would have inherited a better legal system from our forefathers if those principles had been observed from the beginning. For example, with respect to the excuse of self-defense, if our courts had stood steadfast on the language of the statute the result would undoubtedly have been a legislative revision of it. Such a revision would have drawn on the assistance of natural philosophers and psychologists, and the resulting regulation of the matter would have had an understandable and rational basis, instead of the hodgepodge of verbalisms and metaphysical distinctions that have emerged from the judicial and professorial treatment.

These concluding remarks are, of course, beyond any duties that I have to discharge with relation to this case, but I include them here because I feel deeply that my colleagues are insufficiently aware of the dangers implicit in the conceptions of the judicial office advocated by my brother Foster.

I conclude that the conviction should be affirmed.

HANDY, J. I have listened with amazement to the tortured ratiocinations to which this simple case has given rise. I never cease to wonder at my colleagues' ability to throw an obscuring curtain of legalisms about every issue presented to them for decision. We have heard this afternoon learned disquisitions on the distinction between positive law and the law of nature, the language of the statute and the purpose of the statute, judicial functions and executive functions, judicial legislation and legislative legislation. My only disappointment was that someone did not raise the question of the legal nature of the bargain struck in the cave—whether it was unilateral or bilateral, and whether Whetmore could not be considered as having revoked an offer prior to action taken thereunder.

What have all these things to do with the case? The problem before us is what we, as officers of the government, ought to do with these defendants. That is a question of practical wisdom, to be exercised in a context, not of abstract theory, but of human realities. When the case is approached in this light, it becomes, I think, one of the easiest to decide that has ever been argued before this Court.

Before stating my own conclusions about the merits of the case, I should like to discuss briefly some of the more fundamental issues involved—issues on which my colleagues and I have been divided ever since I have been on the bench.

I have never been able to make my brothers see that government is a human affair, and that men are ruled, not by words on paper or by abstract theories, but by other men. They are ruled well when their rulers understand the feelings and conceptions of the masses. They are ruled badly when that understanding is lacking.

Of all branches of the government, the judiciary is the most likely to lose its contact with the common man. The reasons for this are, of course, fairly obvious. Where the masses react to a situation in terms of a few salient features, we pick into little pieces every situation presented to us. Lawyers are hired by both sides to analyze and dissect. Judges and attorneys vie with one another to see who can discover the greatest number of difficulties and distinctions in a single set of facts. Each side tries to find cases, real or imagined, that will embarrass the demonstrations of the other side. To escape this embarrassment, still further distinctions are invented and imported into the situation. When a set of facts has been subjected to this kind of treatment for a sufficient time, all the life and juice have gone out of it and we have left a handful of dust.

Now I realize that wherever you have rules and abstract principles lawyers are going to be able to make distinctions. To some extent the sort of thing I have been describing is a necessary evil attaching to any formal regulation of human affairs. But I think that the area which really stands in need of such regulation is greatly overestimated. There are, of course, a few fundamental rules of the game that must be accepted if the game is to go on at all. I would include among these the rules relating to the conduct of elections, the appointment of public officials, and the term during which an office is held. Here some

restraint on discretion and dispensation, some adherence to form, some scruple for what does and what does not fall within the rule, is, I concede, essential. Perhaps the area of basic principle should be expanded to include certain other rules, such as those designed to preserve the free civilmoign system.

But outside of these fields I believe that all government officials, including judges, will do their jobs best if they treat forms and abstract concepts as instruments. We should take as our model, I think, the good administrator, who accommodates procedures and principles to the case at hand, selecting from among the available forms those most suited to reach the proper result.

The most obvious advantage of this method of government is that it permits us to go about our daily tasks with efficiency and common sense. My adherence to this philosophy has, however, deeper roots. I believe that it is only with the insight this philosophy gives that we can preserve the flexibility essential if we are to keep our actions in reasonable accord with the sentiments of those subject to our rule. More governments have been wrecked, and more human misery caused, by the lack of this accord between ruler and ruled than by any other factor that can be discerned in history. Once drive a sufficient wedge between the mass of people and those who direct their legal, political, and economic life, and our society is ruined. Then neither Foster's law of nature nor Keen's fidelity to written law will avail us anything.

Now when these conceptions are applied to the case before us, its decision becomes, as I have said, perfectly easy. In order to demonstrate this I shall have to introduce certain realities that my brothers in their coy decorum have seen fit to pass over in silence, although they are just as acutely aware of them as I am.

The first of these is that this case has aroused an enormous public interest, both here and abroad. Almost every newspaper and magazine has carried articles about it; columnists have shared with their readers confidential information as to the next governmental move; hundreds of letters-to-the-editor have been printed. One of the great newspaper chains made a poll of public opinion on the question, "What do you think the Supreme Court should do with the Speluncean explorers?" About ninety per cent expressed a belief that the defendants should be pardoned or let off with a kind of token punishment. It is perfectly

clear, then, how the public feels about the case. We could have known this without the poll, of course, on the basis of common sense, or even by observing that on this Court there are apparently four-and-a-half men, or ninety per cent, who share the common opinion.

This makes it obvious, not only what we should do, but what we must do if we are to preserve between ourselves and public opinion a reasonable and decent accord. Declaring these men innocent need not involve us in any undignified quibble or trick. No principle of statutory construction is required that is not consistent with the past practices of this Court. Certainly no layman would think that in letting these men off we had stretched the statute any more than our ancestors did when they created the excuse of self-defense. If a more detailed demonstration of the method of reconciling our decision with the statute is required, I should be content to rest on the arguments developed in the second and less visionary part of my brother Foster's opinion.

Now I know that my brothers will be horrified by my suggestion that this Court should take account of public opinion. They will tell you that public opinion is emotional and capricious, that it is based on half-truths and listens to witnesses who are not subject to cross-examination. They will tell you that the law surrounds the trial of a case like this with elaborate safeguards, designed to insure that the truth will be known and that every rational consideration bearing on the issues of the case has been taken into account. They will warn you that all of these safeguards go for naught if a mass opinion formed outside this framework is allowed to have any influence on our decision.

But let us look candidly at some of the realities of the administration of our criminal law. When a man is accused of crime, there are, speaking generally, four ways in which he may escape punishment. One of these is a determination by a judge that under the applicable law he has committed no crime. This is, of course, a determination that takes place in a rather formal and abstract atmosphere. But look at the other three ways in which he may escape punishment. These are: (1) a decision by the Prosecutor not to ask for an indictment; (2) an acquittal by the jury; (3) a pardon or commutation of sentence by the executive. Can anyone pretend that these decisions are held within a rigid and formal framework of rules that prevents factual

error, excludes emotional and personal factors, and guarantees that all the forms of the law will be observed?

In the case of the jury we do, to be sure, attempt to cabin their deliberations within the area of the legally relevant, but there is no need to deceive ourselves into believing that this attempt is really successful. In the normal course of events the case now before us would have gone on all of its issues directly to the jury. Had this occurred we can be confident that there would have been an acquittal or at least a division that would have prevented a conviction. If the jury had been instructed that the men's hunger and their agreement were no defense to the charge of murder, their verdict would in all likelihood have ignored this instruction and would have involved a good deal more twisting of the letter of the law than any that is likely to tempt us. Of course the only reason that didn't occur in this case was the fortuitous circumstance that the foreman of the jury happened to be a lawyer. His learning enabled him to devise a form of words that would allow the jury to dodge its usual responsibilities.

My brother Tatting expresses annoyance that the Prosecutor did not, in effect, decide the case for him by not asking for an indictment. Strict as he is himself in complying with the demands of legal theory, he is quite content to have the fate of these men decided out of court by the Prosecutor on the basis of common sense. The Chief Justice, on the other hand, wants the application of common sense postponed to the very end, though like Tatting, he wants no personal part in it.

This brings me to the concluding portion of my remarks, which has to do with executive clemency. Before discussing that topic directly, I want to make a related observation about the poll of public opinion. As I have said, ninety per cent of the people wanted the Supreme Court to let the men off entirely or with a more or less nominal punishment. The ten per cent constituted a very oddly assorted group, with the most curious and divergent opinions. One of our university experts has made a study of this group and has found that its members fall into certain patterns. A substantial portion of them are subscribers to "crank" newspapers of limited circulation that gave their readers a distorted version of the facts of the case. Some thought that "Speluncan" means "cannibal" and that anthropophagy is a tenet of the Society. But the point I want to make, however, is this: although almost

every conceivable variety and shade of opinion was represented in this group, there was, so far as I know, not one of them, nor a single member of the majority of ninety per cent, who said, "I think it would be a fine thing to have the courts sentence these men to be hanged, and then to have another branch of the government come along and pardon them." Yet this is a solution that has more or less dominated our discussions and which our Chief Justice proposes as a way by which we can avoid doing an injustice and at the same time preserve respect for law. He can be assured that if he is preserving anybody's morale, it is his own, and not the public's, which knows nothing of his distinctions. I mention this matter because I wish to emphasize once more the danger that we may get lost in the patterns of our own thought and forget that these patterns often cast not the slightest shadow on the outside world.

I come now to the most crucial fact in this case, a fact known to all of us on this Court, though one that my brothers have seen fit to keep under the cover of their judicial robes. This is the frightening likelihood that if the issue is left to him, the Chief Executive will refuse to pardon these men or commute their sentence. As we all know, our Chief Executive is a man now well advanced in years, of very stiff notions. Public clamor usually operates on him with the reverse of the effect intended. As I have told my brothers, it happens that my wife's niece is an intimate friend of his secretary. I have learned in this indirect, but, I think, wholly reliable way, that he is firmly determined not to commute the sentence if these men are found to have violated the law.

No one regrets more than I the necessity for relying in so important a matter on information that could be characterized as gossip. If I had my way this would not happen, for I would adopt the sensible course of sitting down with the Executive, going over the case with him, finding out what his views are, and perhaps working out with him a common program for handling the situation. But of course my brothers would never hear of such a thing.

Their scruple about acquiring accurate information directly does not prevent them from being very perturbed about what they have learned indirectly. Their acquaintance with the facts I have just related explains why the Chief Justice, ordinarily a model of decorum, saw fit in

his opinion to flap his judicial robes in the face of the Executive and threaten him with excommunication if he failed to commute the sentence. It explains, I suspect, my brother Foster's feat of levitation by which a whole library of law books was lifted from the shoulders of these defendants. It explains also why even my legalistic brother Keen emulated Pooh-Bah in the ancient comedy by stepping to the other side of the stage to address a few remarks to the Executive "in my capacity as a private citizen." (I may remark, incidentally, that the advice of Private Citizen Keen will appear in the reports of this court printed at taxpayers' expense.)

I must confess that as I grow older I become more and more perplexed at men's refusal to apply their common sense to problems of law and government, and this truly tragic case has deepened my sense of discouragement and dismay. I only wish that I could convince my brothers of the wisdom of the principles I have applied to the judicial office since I first assumed it. As a matter of fact, by a kind of sad rounding of the circle, I encountered issues like those involved here in the very first case I tried as Judge of the Court of General Instances in Fanleigh County.

A religious sect had unfrocked a minister who, they said, had gone over to the views and practices of a rival sect. The minister circulated a handbill making charges against the authorities who had expelled him. Certain lay members of the church announced a public meeting at which they proposed to explain the position of the church. The minister attended this meeting. Some said he slipped in unobserved in a disguise; his own testimony was that he had walked in openly as a member of the public. At any rate, when the speeches began he interrupted with certain questions about the affairs of the church and made some statements in defense of his own views. He was set upon by members of the audience and given a pretty thorough pommeling, receiving among other injuries a broken jaw. He brought a suit for damages against the association that sponsored the meeting and against ten named individuals who he alleged were his assailants.

When we came to the trial, the case at first seemed very complicated to me. The attorneys raised a host of legal issues. There were nice questions on the admissibility of evidence, and, in connection with the suit against the association, some difficult problems turning on the

question whether the minister was a trespasser or a licensee. As a novice on the bench I was eager to apply my law school learning and I began studying these questions closely, reading all the authorities and preparing well-documented rulings. As I studied the case I became more and more involved in its legal intricacies and I began to get into a state approaching that of my brother Tatting in this case. Suddenly, however, it dawned on me that all these perplexing issues really had nothing to do with the case, and I began examining it in the light of common sense. The case at once gained a new perspective, and I saw that the only thing for me to do was to direct a verdict for the defendants for lack of evidence.

I was led to this conclusion by the following considerations. The melee in which the plaintiff was injured had been a very confused affair, with some people trying to get to the center of the disturbance, while others were trying to get away from it; some striking at the plaintiff, while others were apparently trying to protect him. It would have taken weeks to find out the truth of the matter. I decided that nobody's broken jaw was worth that much to the Commonwealth. (The minister's injuries, incidentally, had meanwhile healed without disfigurement and without any impairment of normal faculties.) Furthermore, I felt very strongly that the plaintiff had to a large extent brought the thing on himself. He knew how inflamed passions were about the affair, and could easily have found another forum for the expression of his views. My decision was widely approved by the press and public opinion, neither of which could tolerate the views and practices that the expelled minister was attempting to defend.

Now, thirty years later, thanks to an ambitious Prosecutor and a legalistic jury foreman, I am faced with a case that raises issues which are at bottom much like those involved in that case. The world does not seem to change much, except that this time it is not a question of a judgment for five or six hundred frelars, but of the life or death of four men who have already suffered more torment and humiliation than most of us would endure in a thousand years. I conclude that the defendants are innocent of the crime charged, and that the conviction and sentence should be set aside.

TATTING, J. I have been asked by the Chief Justice whether, after listening to the two opinions just rendered, I desire to re-examine the

position previously taken by me. I wish to state that after hearing these opinions I am greatly strengthened in my conviction that I ought not to participate in the decision of this case.

The Supreme Court being evenly divided, the conviction and sentence of the Court of General Instances is *affirmed*. It is ordered that the execution of the sentence shall occur at 6 A.M., Friday, April 2, 4300, at which time the Public Executioner is directed to proceed with all convenient dispatch to hang each of the defendants by the neck until he is dead.

POSTSCRIPT

Now that the court has spoken its judgment, the reader puzzled by the choice of date may wish to be reminded that the centuries which separate us from the year 4300 are roughly equal to those that have passed since the Age of Pericles. There is probably no need to observe that the *Speluncean Case* itself is intended neither as a work of satire nor as a prediction in any ordinary sense of the term. As for the judges who make up Chief Justice Truepenny's court, they are, of course, as mythical as the facts and precedents with which they deal. The reader who refuses to accept this view, and who seeks to trace out contemporary resemblances where none is intended or contemplated, should be warned that he is engaged in a frolic of his own, which may possibly lead him to miss whatever modest truths are contained in the opinions delivered by the Supreme Court of Newgarth. The case was constructed for the sole purpose of bringing into a common focus certain divergent philosophies of law and government. These philosophies presented men with live questions of choice in the days of Plato and Aristotle. Perhaps they will continue to do so when our era has had its say about them. If there is any element of prediction in the case, it does not go beyond a suggestion that the questions involved are among the permanent problems of the human race.

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MAXIMILIAN KOESSLER's *long and fascinating life came to an end in December of 1964, a few weeks after the publication of this anthology. He held an Austrian Doctorate of Law and an LL.B. with honors from Columbia Law School. He was a member of the New York and California Bars and was formerly on the legal staff of the U.S. Army. His trial experience was extensive, encompassing 20 years in Vienna before World War II, and prosecution and defense work during the war crimes trials. His scholarly work appeared many times in law reviews, bar journals and political science periodicals. "MASTERPIECES OF LEGAL FICTION" is presented as a labor of love from a man of erudition for the pleasure of his fellows.*

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